CFTRI-MYSORE
2405
Bell's sale of f..

BELL'S SALE OF FOOD AND DRUGS

SUPPLEMENT

TO THE

TWELFTH EDITION

by

J. E. S. RICARDO, B.A. (Cantab.)

OF THE INNER TEMPLE AND THE WESTERN CIRCUIT, BARRISTER-AT-LAW

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PUBLISHER'S ANNOUNCEMENT

THE principal reason for this Supplement is to be found in the passing of the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950. This Act consolidates Part II of the Food and Drugs Act, 1938, the Food and Drugs (Milk and Dairies) Act, 1944, the Milk (Special Designations) Act, 1949, and a few provisions of the Agriculture (Miscellaneous Provisions) Act, 1949.

The new Act is set out in full with annotations at pp. A63 *et seq.* of this Supplement and in addition a table of comparison with earlier legislation is provided. The latter enables the user of the Supplement to trace the provisions of the consolidating Act to their sources in the older legislation so that all the case law already noted to the older legislation in the Main Volume can readily be considered.

The Supplement begins with a Noter-up (pp. A1–A48) which takes the user through the text of the Main Volume page by page giving full details of all changes in the law that have taken place since the publication of the 12th Edition in 1947.

The remainder of the Supplement consists of such sections of the Prevention of Damage by Pests Act, 1949, as are relevant to " Bell " and the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950, already referred to. This is followed by an Appendix listing the principal orders relevant to " Bell " which have appeared since 1947. The texts of these regulations are not included because it was felt that the space they would occupy would make the Supplement too large to be convenient but full notes of their effect on legislation already printed in " Bell " are of course included in the Noter-up.

The Editor and Publishers acknowledge gratefully the help rendered to them by R. A. Robinson, O.B.E., Barrister-at-Law, the Editor of the 12th Edition of " Bell," who, although prevented by ill-health from taking an active part in the preparation of the Supplement, has read through the proofs and made various useful suggestions.

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INTRODUCTION TO TWELFTH EDITION AND SUPPLEMENT

In 1943 an important change was made in the law relating to the labelling and composition of food. This was the virtual supersession of certain provisions of the Food and Drugs Act, 1938, by the Defence (Sale of Food) Regulations, 1943 (p. 360 of the Main Volume) (which were made under emergency powers but have been continued in force to date), with a consequent practical transfer of powers from the Ministry of Health to the Ministry of Food. Since the publication of the twelfth edition of this work in 1947, this transfer of powers has been continued by means of certain important express transfers of functions under the Food and Drugs Acts between the Minister of Food, the Minister of Health and other Ministers (noted in this Supplement). In addition the law relating to milk, dairies and artificial cream has been remodelled, in the first instance by amendment of Part II of the Food and Drugs Act, 1938 (p. 124 of the Main Volume), and subsequently by the repeal of that Part and amending legislation, and their replacement in a consolidated form by the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950 (pp. 63 *et seq.*, *post*).

As a result of the Report in 1934 of the Departmental Committee on the Composition and Description of Food, provision was made by s. 6 of the Food and Drugs Act, 1938 (p. 106 of the Main Volume), rendering it an offence to give with any food or drug a label, or to publish any advertisement, which falsely described the food or drug or was otherwise calculated to mislead as to its nature, substance or quality, while by s. 8 (1) (b), (c) of that Act (p. 109 of the Main Volume) the Minister of Health was empowered to make regulations dealing with the labelling and composition of foods. The enforcement of s. 6 by Food and Drugs Authorities proved unsatisfactory, while no regulations under s. 8 (1) (b), (c) of the Act were in fact made by the Ministry of Health. In 1943 it was decided to transfer responsibility under this head in relation to food to the Ministry of Food constituted on the outbreak of war. The Defence (Sale of Food) Regulations, 1943, were accordingly made by Order in Council under the Emergency Powers (Defence) Acts, 1939 and 1940. Reg. 1 of those Regulations (p. 360 of the Main Volume) substantially re-enacts, in relation to food, s. 6 of the Food and Drugs Act, 1938, and provides for the suspension of that section (so far as it relates to food) during the continuance in force of the Regulation. The Regulation, however, for the first time introduces the subject of labels or advertisements misleading " as to nutritional or dietary value." The Minister of Food retains in his own hands the power of sanctioning prosecutions.

Reg. 2 of the Regulations (p. 362 of the Main Volume) corresponds to s. 8 (1) (b), (c) of the Food and Drugs Act, 1938 (so far as that section relates to the labelling and composition of food), but that section is not formally suspended. Reg. 2 also overlaps certain provisions of s. 9 (1) of the Sale of Food (Weights and Measures) Act, 1926 (p. 47 of the Main Volume), relating to the labelling of pre-packed foods. The Regulation

further contains provision for restricting the making in advertisements of claims as to vitamins or minerals. Whereas the power to make regulations under s. 8 of the Food and Drugs Act, 1938, was (until 1948) vested solely in the Minister of Health and the power under s. 9 (1) of the Sale of Food (Weights and Measures) Act, 1926, is vested in the Board of Trade, the power under reg. 2 of the above Regulations was vested originally wholly in the Minister of Food. The position has now, to some extent, been regularised, since the power to make regulations under s. 8 of the Act of 1938 has been transferred to the Ministers of Food and Health acting jointly, by the Transfer of Functions (Food and Drugs) Order, 1948 (S. I. 1948, No. 107), and, by the Transfer of Functions (Sale of Food) Order, 1950 (S. I. 1950, No. 1044), the power under reg. 2 of the above Regulations to make orders which relate to the labelling of pre-packed articles with weight, measure, etc., has been transferred to the Board of Trade (though otherwise the power to make orders under that Regulation remains with the Minister of Food).

Since the expiration of the Emergency Powers (Defence) Acts, 1940 to 1945, the Defence (Sale of Food) Regulations, 1943, have been kept in force by the Emergency Laws (Transitional Provisions) Act, 1946, the Emergency Laws (Miscellaneous Provisions) Act, 1947, and Orders made under the latter Act. They are at present continued in force until 10th December, 1952, by S. I. 1951, No. 2117, and there can be little doubt that they will ultimately be enacted in permanent form.

It should be noted that, for the purposes of the Defence (Sale of Food) Regulations, 1943, and the Labelling of Food Order, 1950, an article is not to be deemed not to be a food by reason only that it is capable of being used as a medicine, whereas in the Food and Drugs Act, 1938, the definition of food excludes drugs, *i.e.*, medicines for internal or external use.

In making Orders as to composition and labelling under the Defence (Sale of Food) Regulations, 1943, and the Food and Drugs Act, 1938, the appropriate Ministry is advised by a Food Standards Committee. In addition to the provisions of Food Standards Orders, requirements as to the composition of particular foods have been in certain instances imposed by Food Control Orders made under the Defence (General) Regulations, 1939, and Codes of Practice (not embodied in legislative form) concerning the composition of foods have in many instances been agreed between the Ministry of Food and trade interests. A report, "The Advertising, Labelling and Composition of Food" (S.O. Code No. 70–580), was issued by the Ministry of Food in 1949 concerning the administration of the Defence (Sale of Food) Regulations, 1943, up to date.

Although the principal sections of the Food and Drugs Act, 1938, do not apply to Scotland or Northern Ireland, Orders made under emergency powers usually apply throughout the United Kingdom subject to modification in matters of detail.

The position with respect to the enforcing authority for the various classes of Orders made under Defence Regulations may be stated as under :

Proceedings in England and Wales for infringements of Food Standards Orders and the Orders relating to fluorine and mineral oil in food may be instituted by Food and Drugs Authorities without the consent of the Minister of Food.

Proceedings under reg. 1 of the Defence (Sale of Food) Regulations, 1943, or under the Labelling of Food Order, 1950, may be instituted

by Food and Drugs Authorities with the special consent of the Minister of Food.

Proceedings under the Pre-Packed Food (Weights and Measures : Marking) Order, 1950, may be instituted by Weights and Measures Authorities. Such authorities are empowered also to enforce those provisions of the Bread Order, 1951, which have temporarily replaced parts of s. 6 of the Sale of Food (Weights and Measures) Act, 1926.

Provisions are contained in Food Control and Maximum Prices Orders making infringements of these Orders offences against the Defence (General) Regulations, 1939. Proceedings may therefore be instituted as provided by reg. 93 of those Regulations, but not by Food and Drugs authorities as such.

Proceedings under s. 6 of the Food and Drugs Act, 1938, with respect to false or misleading labels on drugs remain in the unfettered hands of Food and Drugs Authorities.

As already stated, the effect of the Defence (Sale of Food) Regulations, 1943, was virtually to constitute the Minister of Food, instead of the Minister of Health, the authority responsible for regulating the composition and labelling of food. Since 1947, transfers of functions under the Food and Drugs Act, 1938, have been effected by a number of Orders made under the Ministers of the Crown (Transfer of Functions) Act, 1946. Of these, the most important is the Transfer of Functions (Food and Drugs) Order, 1948 (S. I. 1948, No. 107), which transferred to the Ministers of Health and Food, acting jointly, the functions, previously exercisable by the Minister of Health alone, of making Food Regulations under the Act, Bread and Flour Regulations, and regulations relating to public analysts and certificates of analysis. That Order also transferred certain administrative functions under the Act to the Minister of Food from the Minister of Health, or the Minister of Agriculture and Fisheries. Further provisions of that Order, which related to transfers of functions with respect to milk and dairies, have now been replaced by corresponding provisions contained in the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950 (as to which, see below). Other Orders made under the Ministers of the Crown (Transfer of Functions) Act, 1946, have transferred certain functions formerly exercisable by the Minister of Health (including all his functions under Part V of the Food and Drugs Act, 1938) to the Minister of Housing and Local Government or, in particular instances, the Home Secretary.

Perhaps the most important changes in recent years within the scope of this work have been the alterations in the law relating to the production and distribution of milk, which was formerly embodied in Part II of the Food and Drugs Act, 1938. These alterations have taken place in several stages.

In 1944, the Food and Drugs (Milk and Dairies) Act, 1944 (p. 249 of the Main Volume), was passed as a result of a government decision that the Minister of Agriculture and Fisheries should become responsible for all that related to milk production. The Act provided for that Minister to be associated with the Minister of Health in the making of Milk and Dairies Regulations and Milk (Special Designation) Regulations relating to raw milk, for the registration by that Minister under Milk and Dairies Regulations of dairy farms and dairy farmers, and for the granting of licences to producers of raw milk authorising the use of special designations by that Minister instead of by the Minister of Health or county councils or local authorities. The Act was not, however,

brought into force until 1st October, 1949. In 1948, as part of a general transfer of administrative responsibilities to the Minister of Food, it was provided by the Food and Drugs (Transfer of Functions) Order, 1948, that the Minister of Food should be associated in the making of Milk and Dairies and Milk (Special Designation) Regulations. Consequently, on the coming into operation of the Food and Drugs (Milk and Dairies) Act, 1944, the Minister of Food, the Minister of Health and the Minister of Agriculture and Fisheries became jointly responsible for the making of Milk and Dairies Regulations and Milk (Special Designation) Regulations relating to raw milk, while the power to make other Milk (Special Designation) Regulations became vested in the Minister of Food and the Minister of Health jointly. By further provisions of the 1948 Order the functions of the Minister of Health as regards licences to use special designations granted otherwise than to producers of raw milk were transferred to the Minister of Food, and the power of the Minister of Agriculture and Fisheries to make regulations as to presumptive evidence of adulteration of milk was transferred to that Minister, the Minister of Health and the Minister of Food, acting jointly.

Meanwhile, in 1944, a new reg. 55G (p. 328 of the Main Volume) had been added to the Defence (General) Regulations, 1939, which authorised the Minister of Food to impose restrictions on the sale in specified areas of milk sold otherwise than under certain descriptions. In 1949, reg. 55G was replaced and substantially re-enacted in permanent form by the Milk (Special Designations) Act, 1949, which provided for the compulsory use of special designations on retail sales and in connection with use of milk in catering in areas specified by the Minister of Food.

Under Part II of the Food and Drugs Act, 1938, as modified by the enactments referred to above, new Milk and Dairies Regulations were issued in 1949 (S. I. 1949, No. 1588), together with separate Milk (Special Designation) (Pasteurised and Sterilised Milk) Regulations (S. I. 1949, No. 1589, as amended by S. I. 1950, No. 409), and Milk (Special Designation) (Raw Milk) Regulations (S. I. 1949, No. 1950, as amended by S. I. 1950, No. 410).

Finally, on 1st January, 1951, Part II of the Food and Drugs Act, 1938, and the amending legislation noted above, were repealed and replaced in a consolidated form by the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950 (pp. A63 *et seq.*, *post*), which embodies the effect of the transfers of functions and the provisions as to compulsory use of special designations in specified areas above set out (for areas at present specified, see S. I. 1951, No. 1358). By a saving provision contained in that Act the Milk and Dairies Regulations and Milk (Special Designation) Regulations made in 1949 under the repealed enactments are continued in force under that Act.

By regulations made by the Minister of Agriculture and Fisheries under the Agriculture Act, 1947, certain functions of that Minister under Milk and Dairies Regulations and Milk (Special Designation) Regulations are exercisable also by County Agricultural Executive Committees (S. I. 1949, No. 1847, as amended by S. I. 1950, No. 1818).

PART I

NOTER-UP

Note.—The pages in the margin are the page numbers of the Main Volume.

TABLE OF STATUTES

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XIV **Markets and Fairs Clauses Act, 1847.**—For " 9 & 10 Vict. c. 14," substitute " 10 & 11 Vict. c. 14."

INTRODUCTION

3–6 Delete and substitute the Introduction to this Supplement, *ante*.

SALE OF FOOD AND DRUGS ACT, 1875

9 **Section 30.**—It should be noted that the expression " Ireland " in this section now means Northern Ireland only (Irish Free State (Consequential Adaptation of Enactments) Order, 1923 (S. R. & O., 1923, No. 405)).

10 **Note (a).**—45 & 46 Vict. c. 41, ss. 5 and 6, was repealed by the Finance Act, 1946, s. 67 and Twelfth Schedule, Part II.

MERCHANDISE MARKS ACT, 1887

11 **Section 2 (1) (d).**—In *Kat* v. *Diment*, [1951] 1 K. B. 34 ; [1950] 2 All E. R. 657 ; 2nd Digest Supp., a prosecution under s. 2 (1) (d), the Court held the fact that a description was known to and commonly used by the trade was immaterial if that description was false. The application of a false trade description is *prima facie* evidence of an intent to defraud.

Section 2 (2.)—Paras. (a) and (b) of this subsection apply only where goods were sold with a false trade description already stamped on them or otherwise applied to them and not in circumstances where the false trade description was applied on the occasion, and as part of the terms of, sale ; the words in para. (c), " otherwise he had acted innocently " are not satisfied by proof that the accused acted in good faith, and had taken all precautions against committing an offence, but must be construed as meaning that he had acted inadvertently or under a misapprehension or mistake of fact (*Slatcher* v. *Mence Smith* (*George*), *Ltd.*, [1951] 2 K. B. 631 ; [1951] 2 All E. R. 388).

12 **Section 2. General Note.**—The Labelling of Food Order, 1946, is now replaced by the Labelling of Food Order, 1950 (S. I. 1950, No. 1061, as amended by S. I. 1952, No. 549). The provisions of the Defence (Patents, Trade Marks, etc.) Regulations, 1941, which modified this Act in relation to essential imports, were revoked as from 10th March, 1950, by the Defence Regulations (No. 4) Order, 1950 (S. I. 1950, No. 183).

14 **Section 3 (1) and note (b).**—S. 103 of the Patents, Designs and Trade Marks Act, 1883, is replaced by ss. 91 and 91A of the Patents and Designs Act, 1907 (25 Halsbury's Statutes (2nd Edn.), 1132, 1133).

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MERCHANDISE MARKS ACT, 1926

18 **Section 1 (5).**—This subsection was repealed by the Statute Law Revision Act, 1950 (29 Halsbury's Statutes (2nd Edn.), 809).

General Notes.—The relevant provisions of the Defence (Patents, Trade Marks, etc.) Regulations, 1941, were revoked as from 10th March, 1950, by the Defence Regulations (No. 4) Order, 1950 (S. I. 1950, No. 183).

20 **Subsection (7). "Laid before each House of Parliament."** —For the construction of references to the laying of documents before Parliament, see the Laying of Documents before Parliament (Interpretation) Act, 1948 (24 Halsbury's Statutes (2nd Edn.), 448).

21 **Section 2. General Note.**—Reg. 9 of the Defence (Patents, Trade Marks, etc.) Regulations, 1941 (S. R. & O. 1941, No. 1780, as amended), which authorised the suspension of Orders in Council under this section, was revoked as from 10th March, 1950, by the Defence Regulations (No. 4) Order, 1950 (S. I. 1950, No. 183) Directions and orders in force under that regulation in relation to bacon and ham, butter, currants, sultanas and raisins, eggs, meat and poultry, lapsed on that date. Since the revocation of that regulation, certain Orders in Council under this section have been temporarily suspended by directions given under s. 3 of this Act ; see the Noter-up to s. 3 of this Act, *infra*.

The Board of Trade have issued a notice No. 33B dated September, 1947, containing a list of goods, other than agricultural and horticultural produce and fishery products, subject to Orders in Council under this section. This notice should be read in conjunction with the General Notice (No. 33A) respecting the requirements as to imported goods subject to Orders in Council under this section.

Section 3.—The following directions are for the time being in force under this section :—

Merchandise Marks (Imported Goods) Exemption Direction (No. 1), 1951 (S. I. 1951, No. 957) (butter ; suspending S. R. & O. 1932, No. 128 (p. 345 of the Main Volume), for twelve months from 25th May, 1951).

Merchandise Marks (Imported Goods) Exemption Direction (No. 3), 1951 (S. I. 1951, No. 1621) (dead poultry ; suspending S. R. & O. 1934, No. 301 (p. 348 of the Main Volume), as regards importations before 1st December, 1951, and sales before 1st January, 1952).

Exemption directions previously in force in relation to bacon and ham, currants, sultanas and raisins, and meat (see S. I. 1950, Nos. 881, 883, 885) expired on 25th May, 1951, and have not been replaced.

25 **Line 10.**—*Allard* v. *Selfridge & Co., Ltd.* was applied in *Kat* v. *Diment*, [1951] 1 K. B. 34 ; [1950] 2 All E. R. 657 ; 2nd Digest Supp.

Section 6.—In *Malcolm* v. *Cheek*, [1948] 1 K. B. 400 ; [1947] 2 All E. R. 881 ; 2nd Digest Supp., the Divisional Court held that a defendant was not deprived of his defence under s. 83 of the Food and Drugs Act, 1938 (p. 200 of the Main Volume), by reason of the inability of the police to serve the summons on the person alleged to be responsible for the commission of the offence.

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25 This decision would appear to be equally applicable to proceedings under s. 6 of the Merchandise Marks Act, 1926.

As to the procedure on an appeal in proceedings under this section, *cf.* the Noter-up to s. 83 of the Food and Drugs Act, 1938, p. A22, *post*.

26 **Section 7.**—Orders in Council under this Act are now subject to the provisions of the Statutory Instruments Act, 1946 (24 Halsbury's Statutes (2nd Edn.), 440). By s. 6 of that Act, where an Order is to be laid before Parliament in draft and is subject to negative resolution, a copy of the draft is to be so laid for forty days before being submitted to His Majesty. For the construction of references to laying documents before Parliament, see the Laying of Documents before Parliament (Interpretation) Act, 1948 (24 Halsbury's Statutes (2nd Edn.), 448).

27 **Section 9.**—It is important to note the difference between the sampling procedure required by this section and the procedure for taking samples under s. 70 of the Food and Drugs Act, 1938 (p. 177 of the Main Volume). In a prosecution under this section neither division of the sample nor retention of a third sealed portion is required. The cases on sampling under s. 70 of the Food and Drugs Act, 1938, are, therefore, not relevant to prosecutions under this section. *Cf. Evans* v. *Clinical Products, Ltd.*, [1943] 1 All E. R. 222 ; 2nd Digest Supp. ; where it was held that the sampling procedure prescribed by s. 70 (1) of the Food and Drugs Act, 1938, had no relation to prosecutions under the Merchandise Marks Act, 1887, s. 2 (1) (d) (p. 11 of the Main Volume).

28 **Section 10 (1). "His Majesty's Dominions."**—For territories which were included for the purpose of this Act in the expression "His Majesty's Dominions," see the Merchandise Marks (Mandated Territories) Order, 1928 (S. R. & O. 1928, No. 249). Provision as to the application and modification of enactments in relation to former mandated territories is made by the Mandated and Trust Territories Act, 1947 (6 Halsbury's Statutes (2nd Edn.), 621).

30 **Note (a). Exempted foodstuffs.**—S. R. & O. 1933, No. 638, relates only to edible maize starch and not (as stated in the Main Volume) also to edible rice starch. Further exemptions have been made as follows : edible rice starch (including rice starch cornflour) and edible maize starch cornflour (S. R. & O. 1933, No. 1025) ; edible salt (S. R. & O. 1934, No. 768).

SALE OF FOOD (WEIGHTS AND MEASURES) ACT, 1926

Note.—Recommendations for the amendment of this Act are contained in the Report of the Committee on Weights and Measures Legislation (Cmd. 8219) issued in 1951.

32 **Note (a).**—Delete existing note and substitute :—By s. 70 of the Weights and Measures Act, 1878 (26 Halsbury's Statutes (2nd Edn.), 1247), which by s. 15 of this Act is to be construed as one with it, " Person " includes a body corporate. S. 19 of the Interpretation Act, 1889 (24 Halsbury's Statutes (2nd Edn.), 222), provides that the expression " person " shall, unless the contrary intention appear, include any body of persons corporate or unincorporate. S. 2 (1) of the same Act (24 Halsbury's Statutes (2nd Edn.), 206), contains a similar provision.

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38 **Section 4 (2) (a).**—During the continuance in force of the Food Rationing (General Provisions) Order, 1951 (S. I. 1951, No. 854), para. (a) of sub-s. (2) of s. 4 of this Act does not have effect in relation to rationed foods other than personal points foods ; see Art. 29A of that Order.

39 **Note (c).**—The Order now in force respecting lard is the Oils and Fats (No. 2) Order, 1949 (S. I. 1949, No. 229, as amended by S. I. 1951, Nos. 21, 125, 783 and 1251). Art. 6 of that Order contains an identical provision. For additions to the First Schedule, see Noter-up to s. 9 of this Act, p. A5, *post*.

41 **Notes (f), (g).**—The relevant portions of Reg. 60C of the Defence (General Regulations), 1939, are continued in force until 10th December, 1952, by the Emergency Laws (Miscellaneous Provisions) Act, 1947 (26 Halsbury's Statutes (2nd Edn.), 280), and the Emergency Laws (Continuance) Order, 1951 (S. I. 1951, No. 2117), made thereunder.

42 **Line 14. Pepper.**—All Emergency restrictions on pepper were lifted by the Pepper (Revocation) Order, 1947 (S. R. & O. 1947, No. 50).

43 **Note (c).**—Price control of poultry was ended by the Poultry (Revocation) Order, 1950 (S. I. 1950, No. 1046). Rabbits were freed from control by the Rabbits and Hares (Revocation of Control) Order, 1950 (S. I. 1950, No. 893).

Sub-section (2).—The Meat (Maximum Retail Prices) Order, 1942, has been revoked. The Order now in force is the Meat (Prices) (Great Britain) (No. 2) Order, 1951 (S. I. 1951, No. 1313), which contains a corresponding provision.

Section 6.—The Bread (Control and Maximum Prices) (No. 2) Order, 1943 (S. R. & O. 1943, No. 1653), and the amending Order (S. R. & O. 1946, No. 626) (mentioned in the first note and note (*e*) to this section in the Main Volume) are now replaced by the Bread Order, 1951 (S. I. 1951, No. 258, as amended by S. I. 1951, No. 1077 ; 1952, Nos. 32, 527). That Order continues the suspension of sub-ss. (2), (3) of this section, and contains provisions as to weight of loaves, etc., corresponding to those stated in the Main Volume, except that sale of loaves weighing less than two ounces is permitted and that the permitted weight of a Vienna loaf is seven ounces. Restrictions on quantities of fats and improvers used in bread making, on descriptions and shapes of loaves, and on the sale of sliced, wrapped and banded bread are now removed. Restrictions on the use of imported flour are, however, imposed by the Order, corresponding to those originally imposed by the Flour Order, 1947 (S. R. & O. 1947, No. 548) (now revoked).

45 **Note (k).**—Restrictions on the sale of fancy bread are no longer imposed ; see the Noter-up, *supra*, to p. 43 of the Main Volume.

47 **Note (d).**—The Milk and Dairies Order, 1926, Art. 31 (2), is now replaced by the Milk and Dairies Regulations, 1949 (S. I. 1949, No. 1588), Reg. 29 (2).

Note (e).—The Milk (Control and Maximum Prices) (Great Britain) Order, 1945, Art. 21, is now replaced by the Milk (Control and Maximum Prices) (Great Britain) Order, 1951 (S. I. 1951, No. 1157, as amended by S. I. 1951, Nos. 1490, 2065, 2311), Art. 19, which contains corresponding provisions.

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47 **Section 9. Variation of First Schedule.**—The Sale of Food (Weights and Measures : Variation of First Schedule) Regulations, 1949 (S. I. 1949, No. 2381), made under sub-s. (1) (a) of this section, came into operation on 1st August, 1950, and added a number of articles of food to the list of foods of which the sale, packing and labelling are restricted by s. 4 of this Act :—

In First Schedule, Part II—Compound cooking fat ;

In First Schedule, Part III—Semolina (including flavoured and coloured semolina) ; macaroni and similar products and substitutes ; soya flour ; dried dates ; prunes ; figs ; muscatels ; apples (including dried apple rings) ; pears (including dried pear rings) ; peaches ; apricots ; and nectarines.

Subsection (2). Laid before both Houses of Parliament.—For the construction of references to the laying of documents before Parliament, see the Laying of Documents before Parliament (Interpretation) Act, 1948 (24 Halsbury's Statutes (2nd Edn.), 448).

48 **Note (a).**—The Sale of Food (Weights and Measures : Prepacked Articles) Regulations, 1927, have been revoked by the Sale of Food (Weights and Measures : Prepacked Articles) Regulations, 1950 (S. I. 1950, No. 1104), which re-enact Reg. 3 of the revoked Regulations. The other provisions of the revoked Regulations and the corresponding provisions of the Labelling of Food Order (No.2), 1944, are now replaced by the Pre-packed Food (Weights and Measures : Marking) Order, 1950 (S. I. 1950, No. 1125, as amended by S. I. 1951, No. 1996), which has been made by the Board of Trade under the Defence (Sale of Food) Regulations, 1943 (p. 360 of the Main Volume), as amended by the Transfer of Functions (Sale of Food) Order, 1950 (S. I. 1950, No. 1044). Further provisions of the Labelling of Food Order (No. 2), 1944, are now replaced by the Labelling of Food Order, 1950 (S. I. 1950, No. 1061), as amended by S. I. 1952, No. 549).

51 **Note (a).**—See the Noter-up to s. 13 (3) of this Act, *infra*.

Note (e).—Delete the existing note and substitute the following :—

By s. 15 of this Act, it is to be construed as one with the Weights and Measures Acts, 1878 to 1926. S. 35 of the Weights and Measures Act, 1889 (26 Halsbury's Statutes (2nd Edn.), 1274), provides that " weighing instruments " includes " scales, with the weights belonging thereto, scale-beams, balances, spring-balances, steel-yards, weighing machines and other instruments for weighing," and further provides that the expression " weighing machine " in the Weights and Measures Act, 1878 (26 Halsbury's Statutes (2nd Edn.), 1215), shall include any weighing instrument as above defined.

54 **Note (i).**—See also *Malcolm* v. *Cheek* (referred to in the Noter-up to p. 25 of the Main Volume, p. A2, *ante*.

58 **Section 13 (3). Inspector of weights and measures.**—In *R.* v. *Swansea Justices, Ex parte Brown* (1948), 112 J. P. 444 ; 2nd Digest Supp., a Divisional Court held that " inspector " and " officer " are interchangeable terms and that a summons is not bad if it charges a defendant with obstructing an officer and not an inspector.

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59 **Section 15 (2), (3).**—These subsections were repealed by the Statute Law Revision Act, 1950 (29 Halsbury's Statutes (2nd Edn.), 809).

Note (a)—See also case cited in the Noter-up to s. 13 (3) of this Act, *supra*.

60 **First Schedule.**—For additions to the First Schedule made by the Sale of Food (Weights and Measures: Variation of First Schedule) Regulations, 1949 (S. I. 1949, No. 2381), see the Noter-up to p. 47 of the Main Volume, p. A5, *ante*.

63 **Third Schedule.**—This Schedule was repealed by the Statute Law Revision Act, 1950 (29 Halsbury's Statutes (2nd Edn.), 809).

AGRICULTURAL PRODUCE (GRADING AND MARKING) ACT, 1928

65 **Note (b).**—S. R. & O. 1935, No. 976 (Apples), was revoked by the Apples (Grading and Marking) (Revocation) Regulations, 1948 (S. I. 1948, No. 2311). Note also that S. R. & O. 1933, No. 844 (Brussels Sprouts), S. R. & O. 1933, No. 90 (Cabbage Lettuces), S. R. & O. 1933, No. 893 (Celery), S. R. & O. 1933, No. 693 (Green Peas), and S. R. & O. 1934, No. 483 (Turnips and Swedes), were revoked and replaced by S. R. & O. 1935, No. 107 (Vegetables), which, in turn, has since been revoked and replaced as to Green Peas by S. R. & O. 1939, No. 691.

The following should be added to the list of Regulations :—

Beef	(S. R. & O. 1938, No. 1611).
Caerphilly Cheese . .	(S. R. & O. 1939, No. 63).
Cauliflower and Broccoli .	(S. R. & O. 1938, No. 1646).
Cream Cheese . . .	(S. R. & O. 1938, No. 590).
Eggs	(S. I. 1950, No. 211; see also S. I. 1949, No. 1950).
Gloucester Cheese . .	(S. R. & O. 1939, No. 492).
Green Peas	(S. R. & O. 1939, No. 691)

The Agricultural Produce (Grading and Marking) (General) Regulations, 1928 (S. R. & O. 1928, No. 674), have been made under this Act in addition to regulations relating to specific products.

66 **Section 2 (1). The Minister.**—*I.e.*, the Minister of Agriculture and Fisheries; see s. 7 (1) of the Act (p. 71 of the Main Volume).

68 **Section 3. General Note.**—The provisions of the Defence (General) Regulations, 1939, Reg. 60CAA, which restricted the application of this section, were revoked as from 30th April, 1950, by the Defence Regulations (No. 2) Order, 1950 (S. I. 1950, No. 181).

By the Agricultural Marketing Act, 1933, s. 20 (1 Halsbury's Statutes (2nd Edn.), 278), a contract for the sale of eggs in shell laid by domestic fowls or domestic ducks is to be void unless the eggs are contracted to be sold by weight or under a grade designation provided under this Act. This provision does not apply to contracts for the sale of less than twenty-five eggs or of eggs produced outside Great Britain or of which delivery is required outside Great Britain.

Note (c).—By the Marking of Preserved Eggs (England and Wales) Suspension Order, 1949 (S. I. 1949, No. 1950), eggs which before

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68 21st October, 1949, had been preserved by treatment with oils were exempted from this section. Provision has now been made by which eggs preserved by oil treatment are to be marked with the new designation " Sealed " ; see the Marking of Preserved Eggs (England and Wales) Amendment Regulations, 1950 (S. I. 1950, No. 211), further amending S. R. & O. 1936, No. 1027.

69 **Restoration of operation of Section 4.**—The provisions of the Defence (General) Regulations, 1939, Reg. 60CAA, which suspended the operation of this section, were revoked as from 10th February, 1950, by the Defence Regulations (No. 1) Order, 1950 (S. I. 1950, No. 180).

70 **Section 6 (1). Laid before Parliament.**—Regulations made under this section are now subject to the provisions of the Statutory Instruments Act, 1946 (24 Halsbury's Statutes (2nd Edn.), 440). Ss. 4 (3) and 5 (2) of that Act make provision for copies of instruments to be laid before Parliament normally before they come into operation and for the extension of the period of twenty-one days referred to in this section to forty days. For the construction of references to laying before Parliament, see also the Laying of Documents before Parliament (Interpretation) Act, 1948 (24 Halsbury's Statutes (2nd Edn.), 448).

71 **Section 7. United Kingdom.**—The " United Kingdom " means Great Britain and Northern Ireland ; see the Royal and Parliamentary Titles Act, 1927, s. 2 (2).

AGRICULTURAL PRODUCE (GRADING AND MARKING) AMENDMENT ACT, 1931

73 **Note.**—This Act does not apply to Northern Ireland ; see s. 5 thereof (p. 74 of the Main Volume), by which it is to be construed as one with the Agricultural Produce (Grading and Marking) Act, 1928, and s. 10 (2) of the latter Act (p. 72 of the Main Volume), which provides that that Act shall not extend to Northern Ireland.

74 **Section 4 (1) (b).**—The Trade Marks Acts, 1905 to 1919, were repealed on consolidation by the Trade Marks Act, 1938.

82 **Aiding, Abetting, etc.**—See *Ferguson* v. *Weaving*, [1951] 1 K. B. 814 ; [1951] 1 All E. R. 412 on difference between aiding and abetting and counselling and procuring.

FOOD AND DRUGS ACT, 1938

94 **Note (c). Final paragraph.**—S. R. & O. 1945, No. 410, is now replaced by the Milk (Control and Maximum Prices) (Great Britain) Order, 1951 (S. I. 1950, No. 1157, as amended by S. I. 1951, Nos. 1490, 2065 and 2311).

Note (c). Add at end.—In a prosecution concerning the sale of pills not containing the exact dosage, it was held to be no defence that the deficiency occurred accidentally and in good faith ; if by reason of the process of manufacture the manufacturer knows that the pills will or may be deficient in the quantity of the drug ordered he should give notice to that effect to the purchaser (*Breed* v. *British Drug Houses, Ltd.*, [1947] 2 All E. R. 613 ; 2nd Digest Supp.).

95 **Note (e). Add at end.**—An information charging a defendant with selling food " not of the nature or not of the substance or not

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95 of the quality demanded " was held to be bad as disclosing more than one offence (*Bastin* v. *Davis*, [1950] 2 K. B. 579 ; [1950] 1 All E. R. 1095 ; 2nd Digest Supp., approving note (*e*) on p. 94 of the Main Volume). An information is as open to objection as disclosing more than one offence if it charges a defendant with selling food not of the nature " and " substance " and " quality as if the word " or " had been used (*Moore* v. *Ray*, [1951] 1 K. B. 98 ; [1950] 2 All E. R. 561 ; 2nd Digest Supp., applying *Bastin* v. *Davis*, *supra*).

The fact that no standard has been fixed by law does not prevent an offence being committed if an article falls short of a standard fixed in accordance with the evidence ; see *Webb* v. *Jackson Wyness, Ltd.*, [1948] 2 All E. R. 1054 ; 2nd Digest Supp. (quantity of acetic acid in non-brewed vinegar).

96 **Fourth paragraph.**—Where milk sold to a purchaser as Guernsey milk contained less than the percentage of butter fat prescribed for " Channel Islands milk " by the Milk (Control and Maximum Prices) (Great Britain) Order, 1947 (S. R. & O., No. 2032, as amended), (now replaced by S. I. 1951, No. 1157, as amended), it was held that the definition of " Channel Islands milk " in the Order did not apply for the purposes of this Act and the supplier was, therefore, not guilty of an offence under this section (*Highnam* v. *Turier*, [1951] 2 All E. R. 850).

97 **Line 6.**—The Soft Drinks Order, 1946, has been replaced by the Soft Drinks Order, 1947 (S. R. & O. 1947, No. 2756, as amended by S. I. 1948, No. 1291, and S. I. 1951, No. 137), which no longer limits the maximum quantity of sugar.

98 **" Milk."**—Part II of this Act was repealed by the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950, p. A63, *post*. See also the Noter-up to p. 96 of the Main Volume, *supra*.

99 **Penultimate sentence of first paragraph.**—The Milk and Dairies Order, 1926, is replaced by the Milk and Dairies Regulations, 1949 (S. I. 1949, No. 1588).

100 **" Milk." Add at end.**—In a prosecution under the Sale of Milk Regulations, 1939, Reg. 2 (p. 258 of the Main Volume), the Court of Justiciary held that where milk is found to be deficient of solids other than milk fat it is the duty of the farmer to rebut the presumption that the milk is not genuine but he is not bound to adduce evidence covering every moment of the time from the udder to the consumer (*Kennedy* v. *Smith*, [1947] S. C. (J.) 63 ; 2nd Digest Supp.).

" Drugs."—Power to publish new editions of the British Pharmacopoeia is now conferred by the Medical Act, 1950, s. 23 (29 Halsbury's Statutes (2nd Edn.), 576).

102 **Note (f). Add at end. Vinegar.**—In *Webb* v. *Jackson Wyness, Ltd.*, [1948] 2 All E. R. 1054) ; 2nd Digest Supp., a Divisional Court held that non-brewed vinegar containing less than 4 per cent. acetic acid was not of the nature, substance or quality demanded. See also *Kat* v. *Diment*, [1951] 1 K. B. 34 ; [1950] 2 All E. R. 657 ; 2nd Digest Supp., as to the meaning of " non-brewed vinegar."

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102 **Note (g).**—Provision for the supply of drugs under the National Health Service Act, 1946, is made by s. 38 of that Act (15 Halsbury's Statutes (2nd Edn.), 372).

Note (j).—S. 20 of this Act has been repealed by the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950, p. A63, *post*. For replacing provisions and for the saving of regulations made under s. 20, see the Noter-up to p. 124 of the Main Volume, p. A11, *post*.

104 **Note (g).**—The presence of a nail in a sweet is not an unavoidable consequence of the process of collection or preparation within the meaning of s. 4 (4) (*Lindley* v. *Horner* (*George W.*) *& Co., Ltd.*, [1950] 1 All E. R. 234 ; 2nd Digest Supp.).

See also *Breed* v. *British Drug Houses, Ltd.*, cited in the Noter-up to p. 94 of the Main Volume, p. A7, *ante*.

105 **Section 5 (2).**—After the words " continuously in use " in this subsection, in each place where they occur, insert the words " without any material variation."

109 **Section 8.**—By the Transfer of Functions (Food and Drugs) Order, 1948 (S. I. 1948, No. 107), Art. 2 (a), the power of the Minister of Health to make regulations under this section has been transferred to the Minister of Health and the Minister of Food acting jointly.

Note (c).—Further orders made under the Defence (Sale of Food) Regulations, 1943, are :—the Fluorine in Food Order, 1947 (S. R. & O. 1947, No. 1134), the Mineral Oil in Food Order, 1949 (S. I. 1949, No. 614), the Food Standards (Table Jellies) Order, 1949 (S. I. 1949, No, 1656), the Food Standards (Curry Powder) Order, 1949 (S. I. 1949, No. 1816), the Food Standards (Tomato Ketchup) Order, 1949 (S. I. 1949, No. 1817), the Food Standards (Fish Cakes) Order, 1950 (S. I. 1950, No. 589), the Food Standards (Ice-Cream) Order, 1951 (S. I. 1951, No. 13), the Food Standards (Cream) Order, 1951 (S. I. 1951, No. 668), the Food Standards (Edible Gelatine) Order, 1951 (S. I. 1951, No. 1196, as amended by S. I. 1951, No. 2240), the Food Standards (Fish Paste) Order, 1951 (S. I. 1951, No. 1456, as amended by S. I. 1951, No. 2241), the Food Standards (Meat Paste) Order, 1951 (S. I. 1951, No. 1457, as amended by S. I. 1951, No. 2242), the Labelling of Food Order, 1950 (S. I. 1950, No. 1061, as amended by S. I. 1952, No. 549), and the Pre-packed Food (Weights and Measures : Marking) Order, 1950 (S. I. 1950, No. 1125, as amended by S. I. 1951, No. 996).

110 **Section 8, Note (e).**—Ss. 20, 21 and 23 of this Act have been repealed by the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950, p. A63, *post*. For provisions replacing the repealed sections and saving of regulations made under the repealed powers, see the Noter-up to pp. 124–130 of the Main Volume, pp. A11 *et seq.*, *post*.

113 **Note (e).**—The function of appointing an arbitrator, in default of agreement between the parties, under the Public Health Act, 1936, s. 303 (19 Halsbury's Statutes (2nd Edn.), 475), is now exercised by the Minister of Food in a case falling under sub-s. (4) of this

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113 section ; see the Transfer of Functions (Food and Drugs) Order, 1948 (S. I. 1948, No. 107), Art. 6 (1) (g).

115–120 **Sections 13, 14.**—Suggestions for the amendment of ss. 13 and 14 were made in the Report of the Manufactured Meat Products Working Party (S.O. 70–646) issued by the Ministry of Food in 1950. As to building licences for work necessary for compliance with s. 1, see Ministry of Food Circular MF4/48, dated 18th October, 1948.

120 **Note (b).**—The function of confirming bye-laws under this section is now transferred to the Minister of Food ; see the Transfer of Functions (Food and Drugs) Order, 1948 (S. I. 1948, No. 107), Art. 6 (1) (e).

Model Byelaws under this section were published by the Ministry of Food in 1949 under the title " Ministry of Food, Model Byelaws, series I," together with an explanatory Circular MF18/49, dated 27th October, 1949.

121 **Section 16 (3). Transfer of Functions.**—The functions formerly exercisable under this subsection by the Minister of Health are now transferred to the Minister of Food ; see the Transfer of Functions (Food and Drugs) Order, 1948 (S. I. 1948, No. 107), Art. 6 (1) (a).

122 **Note (g).**—S. 20 of this Act was repealed by the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950, p. A63, *post*. For replacing provisions and saving of regulations under the repealed section, see the Noter-up to p. 124 of the Main Volume, p. A11, *post*.

Section 17.—By the National Health Service Act, 1946, s. 76 and Tenth Schedule, the following additions are made to this section :—

(a) at the end of sub-s. (1), there are inserted the words :—

" and, where the local authority is not the local health authority, the district medical officer of health shall send a copy of the certificate within twelve hours after its receipt to the local health authority."

(b) at the end of sub-s. (4) a new subsection is added as follows :—

" (5) Where a copy of a certificate has been sent to the local health authority under this section, and any fee has been paid for that certificate by the local authority, the fee shall be repaid to the local authority by the local health authority."

For the authorities who are " local health authorities," see s. 19 of that Act (15 Halsbury's Statutes (2nd Edn.), 355).

It was stated in Ministry of Health Circular 46/49, dated 24th May, 1949 (relating to steps to be taken after notification by Medical Officers of Health), that it was not considered that notifications under this section need include cases where food caused an infectious disease otherwise statutorily notifiable as such.

124 **Section 19.**—The occupier of a knacker's yard in England or Wales is for the time being required to hold a licence granted by the Minister of Food in addition to any other licence which he may be required to hold ; see the Knacker's Yard Order, 1948 (S. I. 1948, No. 2353), made under Regs. 55 and 55AA of the Defence (General) Regulations, 1939 (S. R. & O. 1939, No. 927, as amended).

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124 **Part II of the Act.**—Part II of this Act and certain provisions consequential thereon were repealed on 1st January, 1951, by the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950, ss. 36, 38 and Fifth Schedule, pp. A100, A101, A109, *post*.

Prior to the repeal of Part II, the amending provisions contained in the Food and Drugs (Milk and Dairies) Act, 1944 (p. 249 of the Main Volume) had been brought into operation on 1st October, 1949, by the Food and Drugs (Milk and Dairies) Act, 1944 (Appointed Day) Order, 1949 (S. I. 1949, No. 1587); and the relevant provisions of this Act and of the Act of 1944 had been further amended by the Transfer of Functions (Food and Drugs) Order, 1948 (S. I. 1948, No. 107) Arts. 3–5, 6 (2), by the Milk (Special Designations) Act, 1949 (which came into force on 1st October, 1949), and by the Agriculture (Miscellaneous Provisions) Act, 1949, s. 7 and Schedule, Part I (which came into force on 31st May, 1949). The Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950, p. A63, *post*, repeals all the above-mentioned enactments and reproduces them in a consolidated form.

Regulations and Orders made under the repealed enactments are saved by s. 36 (2) of the Act of 1950, p. A101, *post*.

The provisions by which particular sections of this Act have been amended and replaced are specifically noted to those sections.

Section 20.—The provisions of s. 1 of the Food and Drugs (Milk and Dairies) Act, 1944, which amended this section (see p. 125, notes, and p. 249 of the Main Volume) were brought into force on 1st October, 1949. On 1st January, 1951, this section and all provisions amending it were repealed and consolidated. See the Noter-up to Part II, *supra*.

Before the repeal of the section, and before the provisions of the Act of 1944 had been brought into operation, certain further amendments had been made to this section and to the amending provisions of the Act of 1944, as to which, see, *infra*.

Amendments prior to Repeal.—By the Transfer of Functions (Food and Drugs) Order (1948, S. I. 1948, No. 107), Art. 3 (1), (2) (which came into operation on 1st March, 1948), the power to make regulations under this section was transferred, pending the coming into operation of the Food and Drugs (Milk and Dairies) Act, 1944, to the Minister of Health and Minister of Food acting jointly, and, after the coming into operation of that Act, to the Minister of Health, the Minister of Food and the Minister of Agriculture and Fisheries acting jointly. By Art. 3 (3) of that Order, the Food and Drugs (Milk and Dairies) Act, 1944, was correspondingly amended and s. 1 (1) of that Act was repealed.

By the Agriculture (Miscellaneous Provisions) Act, 1949, s. 7 (1) (which came into force on 31st May, 1949), the Minister of Health was empowered, with the approval of the Treasury, to repay in part certain sums paid by local authorities by way of compensation under Milk and Dairies Regulations. By s. 7 (3) of that Act, provision was made for the payment of the chairman of the tribunal constituted under s. 1 (3) of the Food and Drugs (Milk and Dairies) Act, 1944.

The provisions of s. 1 of the Food and Drugs (Milk and Dairies) Act, 1944, were brought into force (as themselves amended by the

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124 enactments above referred to) on 1st October, 1949 ; see the Noter-up to Part II of the 1938 Act, *supra*.

Replacing provisions.—The provisions of this section and the enactments amending it are now replaced as follows :—

Food and Drugs Act 1938	*Food and Drugs (Milk, Dairies and Artificial Cream) Act*, 1950.
s. 20 (1) (a)	s. 2 (1), pA67, *post*.
s. 20 (1) (b)–(k)	s. 1 (1) (b)–(k), p. A65, *post*.
s. 20 (2)	s. 1 (2), p. A66, *post*.
s. 20 (3)	s. 4 (3), p. A69, *post*.
Food and Drugs, (Milk, etc.) Act 1944	
s. 1 (1)	s. 4 (1), p. A68, *post* (replacing Art. 3 of the Transfer of Functions (Food and Drugs) Order, 1948).
s. 1 (2), (3)	s. 3 and First Schedule, Part II, paras. 7, 8, pp. A68, A103, *post*.
s. 1 (4)	s. 35 (2), p. A99, *post*.
s. 1 (5)	s. 1 (1) (a), p. A65, *post*.
s. 1 (6)	s. 1 (1) (h), p. A66, *post*.
Transfer of Functions (Food and Drugs) Order, 1948	
Art. 3	s. 4 (1), p. A68, *post*.
Agriculture (Miscellaneous Provisions) Act, 1949	
s. 7 (1)	s. 7 (4), p. A71, *post*.
s. 7 (3)	First Schedule, Part II, para. 9, p. A104, *post*.

Milk and Dairies Regulations.—The Regulations at present in force are the Milk and Dairies Regulations, 1949 (S. I. No. 1588), made by the Minister of Health, the Minister of Food and the Minister of Agriculture and Fisheries under this section as amended. These Regulations revoke and replace the Milk and Dairies Order, 1926 (p. 305 of the Main Volume), and are themselves kept in force (despite the repeal of this section) by virtue of the saving contained in s. 36 (2) of the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950, p. A101, *post*.

Power to make new Regulations is conferred by s. 1 of the last-mentioned Act, p. A65, *post*, and by s. 4 (1) thereof, p. A68, *post*, is exercisable by the Minister of Health, the Minister of Food and the Minister of Agriculture and Fisheries, acting jointly.

126–127 **Section 21.**—On 1st January, 1951, this section, and the amending provisions noted below, were repealed and consolidated by the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950 ; for replacing provisions, see *infra*.

Amendments prior to Repeal.—S. 2 of the Food and Drugs (Milk and Dairies) Act, 1944 (p. 127, notes, and p. 251 of the Main Volume), did not come into force until 1st October, 1949, when it was brought into operation by S. I. 1949, No. 1587.

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126–127 On 1st March, 1948, the power to make regulations under this section was transferred generally, from the Minister of Health to that Minister and the Minister of Food acting jointly, by the Transfer of Functions (Food and Drugs) Order, 1948 (S. I. 1948, No. 107), Art. 4. This transfer was expressly subject to the provisions of s. 2 (2) of the Food and Drugs (Milk and Dairies) Act, 1944, which provided prospectively for the association of the Minister of Agriculture and Fisheries in the case of regulations relating to raw milk. On the coming into operation of that section, the power to make regulations relating to raw milk consequently became vested in all three Ministers acting jointly.

By Art. 6 (2) of the above Order, the functions of the Minister of Health under sub-s. (1) (b), (e) of this section were transferred to the Minister of Food, except as regards producers of raw milk, in whose case the sole power to grant licences passed to the Minister of Agriculture and Fisheries on the coming into operation of s. 4 (3) of the Food and Drugs (Milk and Dairies) Act, 1944.

The operation of this part of the Act was further modified by the Milk (Special Designations) Act, 1949, which, by s. 16 (2) thereof, came into force on 1st October, 1949. That Act provided for the compulsory use of special designations on the sale of milk by retail or to caterers in specified areas. It revoked and replaced corresponding emergency provisions which had been contained since 1944 in Reg. 55B of the Defence (General) Regulations, 1939 (p. 328 of the Main Volume). In particular, by s. 11 (1)–(3) of that Act, sub-s. (1) (d), (e) of this section were repealed and new provisions substituted (corresponding to those now contained in the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950, Third Schedule, paras. 2 (a), (b) and 6 (1), pp. A105, A107, *post*). By s. 12 (2) of that Act, the application of sub-s. (2) of this section was qualified in relation to milk sold as part of a meal or refreshments (see now the proviso to s. 13 (2) of the Act of 1950, p. A76, *post*). By s. 12 (3) of that Act there was substituted for sub-s. (4) of this section a new subsection (corresponding to provision now contained in s. 13 (6) of the Act of 1950, p. A76, *post*.). By s. 14 (2) of that Act the meaning of " purveyors " in sub-s. (1) (b) of this section was extended to include persons supplying under arrangements for free supply, etc., and sub-s. (2) of this section was correspondingly extended (see now ss. 13 (7) and 28 of the Act of 1950, pp. A76, A92, *post*).

Replacing provision.—The provisions of this section (as amended by the enactments above referred to) have been ultimately replaced by the following provisions of the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950 :—

Food and Drugs Act, 1938.	*Food and Drugs (Milk, Dairies and Artificial Cream) Act*, 1950
s. 21 (1) (a)–(c)	ss. 13 (1), 15 (1), 17 (1), (2), pp. A75, A78, A79, *post*.
s. 21 (1) (d), (e)	Third Schedule, paras. 2 (a), (b), 6 (1), pp. A105, A107, *post*. (See also s. 35 (4), p. A100, *post* (transitional provisions)).

PAGE	*Food and Drugs Act*, 1938	*Food and Drugs (Milk, Dairies and Artificial Cream) Act*, 1950
126–127	s. 21 (2)	s. 13 (2), (3), p. A76, *post*.
	s. 21 (3)	s. 13 (4), (5), p. A76, *post*.
	s. 21 (4)	s. 13 (6), p. A76, *post*. (See also s. 35 (3), p. A99, *post* (transitional provisions)).

Milk (Special Designation) Regulations.—Power to make regulations is now conferred by s. 13 (1) of the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950, p. A75, *post*. By s. 15 of that Act, p. A78, *post*, the power is exercisable, except in relation to raw milk, by the Minister of Health and the Minister of Food, acting jointly, and, in relation to raw milk, by those Ministers acting jointly with the Minister of Agriculture and Fisheries. But by s. 36 (2) of that Act, regulations made under this section (as amended) are continued in force. The regulations at present in force are the following (which replace the regulations cited at p. 314 of the Main Volume):

Milk (Special Designation) (Pasteurised and Sterilised Milk) Regulations, 1949 (S. I. 1949, No. 1589, as amended by S. I. 1950, No. 409).

Milk (Special Designation) (Raw Milk) Regulations, 1949 (S. I. 1949, No. 1590, as amended by S. I. 1950, No. 410).

Enforcement.—S. 13 (6) of the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950, p. A76, *post*, which corresponds to sub-s. (4) of this section, provides for the enforcement of sub-ss. (2) and (3) of that section by Food and Drugs Authorities everywhere (except in the case of producers of raw milk).

128 **Section 22.**—The amendment made to this section by the Food and Drugs (Milk and Dairies) Act, 1944, s. 3 and Schedule (p. 129, notes, and pp. 252 and 254 of the Main Volume), came into force on 1st October, 1949. This section (together with the amending provision) was repealed on 1st January, 1951, by the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950. See the Noter-up to Part II of the 1938 Act, p. A11, *ante*. This section is now replaced by Part I of the First Schedule to the Act of 1950, p. A102, *post*.

130 **Section 23.**—This section was repealed on 1st January, 1951, by the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950, ss. 36, 38 and Fifth Schedule. Sub-s. (1) is now replaced by s. 10 of that Act, p. A74, *post*, and sub-s. (2) by s. 33 of that Act, p. A97, *post*.

Prior to the repeal of this section, the power to make regulations thereunder was transferred to the Minister of Agriculture and Fisheries, the Minister of Health and the Minister of Food, acting jointly, by the Transfer of Functions (Food and Drugs) Order, 1948 (S. I. 1948, No. 107), Art. 5 (now likewise repealed, and replaced).

Regulations.—By virtue of the saving contained in s. 36 (2) of the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950, p. A101, *post*, the Sale of Milk Regulations, 1939 (p. 258 of the Main Volume), which were made under this section, are continued in force.

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130 At the date of going to press, no regulations have been made under the provisions replacing this section.

131 **Section 24.**—This section was repealed on 1st January, 1951, by the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950, ss. 36, 38 and Fifth Schedule. It is replaced by s. 9 (1)–(3) of that Act, p. A73, *post*.

Subsection (1) (a).—Once it is found that water has been added to milk it is no defence to prove that the water was not added by the farmer or his servant (*Wade* v. *Beadle* (1948), 112 J. P. 364 ; 2nd Digest Supp.).

Add to note (f).—Milk awaiting collection at the defendant's farm collecting point, a concrete platform beside the farm roadway but separated by a gate from the farm buildings, is in the farmer's possession (*Kilsby* v. *Horsford* (1949), 93 Sol. Jo 601 ; 2nd Digest Supp.).

132 **Section 25.**—This section was repealed on 1st January, 1951, by the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950, ss. 36, 38 and Fifth Schedule. It is replaced by s. 8 of that Act, p. A72, *post*.

General Notes.—The Tuberculosis Order, 1938 (S. I. 1938, No. 165), has been amended by S. R. & O. 1946, No. 122, and now has effect under the Diseases of Animals Act, 1950 (29 Halsbury's Statutes (2nd Edn.), 16) (which in part repealed the Agriculture Act, 1937).

For special provisions relating to attested herds, attested areas and eradication areas in connection with the control of tuberculosis, see the Tuberculosis (Attested Herds) Scheme, 1950 (S. I. 1950, No. 1126, as amended by S. I. 1950, No. 1803), the Tuberculosis (Compensation) Order, 1950 (S. I. 1950, No. 2005), the Tuberculosis (Area Eradication) Order, 1950 (S. I. 1950, No. 2006), and the Tuberculosis (Slaughter of Reactors) Order, 1950 (S. I. 1950, No. 2007).

133 **Section 26.**—This section was repealed on 1st January, 1951, by the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950, ss. 36, 38 and Fifth Schedule. It is replaced by s 11 of that Act, p. A74, *post*. The replacing section substitutes, for the reference to the " welfare authority," a reference to the " local health authority " under Part III of the National Health Service Act, 1946 (15 Halsbury's Statutes (2nd Edn.), 355) (which repealed and replaced the enactments referred to in the notes in the Main Volume).

133–135 **Sections 27, 28, 29.**—These sections were repealed on 1st January, 1951, by the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950, ss. 36, 38 and Fifth Schedule. They are replaced by ss. 29, 30 and 31 of that Act, pp. A94, A95, A96, *post*.

136 **Section 30. Transfer of Functions.**—By the Transfer of Functions (Food and Drugs) Order, 1948 (S. I. 1948, No. 107), Art. 2, the power to make regulations under this section is now vested in the Minister of Food and Minister of Health acting jointly.

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138–143 **Sections 33–35. Transfer of Functions.**—The functions of the Minister of Agriculture and Fisheries under these sections have been transferred to the Minister of Food by the Transfer of Functions (Food and Drugs) Order, 1948 (S. I. 1948, No. 107), Art. 6 (3).

146 **Section 38. General Notes.**—Price and other controls over horseflesh were removed by the Meat Feeding Stuffs, Venison, Goat Meat and Horseflesh (Revocation) Order, 1950 (S. I. 1950, No. 281) (revoking S. R. & O. 1941, No. 1862, cited on p. 440 of the Main Volume). The Livestock (Restriction on Slaughtering (No. 2) Order, 1940 (p. 442 of the Main Volume), is now replaced by the Livestock (Restriction on Slaughtering) Order, 1947 (S. R. & O. 1947, No. 1079), which contains a corresponding provision for the colouring of horseflesh unfit for human consumption.

146, 147 **Section 39. Transfer of Functions.**—The functions of the Minister of Health under this section were transferred to the Minister of Local Government and Planning on 1st May, 1951, by the Transfer of Functions (Minister of Health and Minister of Local Government and Planning) (No. 2) Order, 1951 (S. I. 1951, No. 753). The title of the Minister of Local Government and Planning has since been changed to "the Minister of Housing and Local Government"; see (S. I. 1951, No. 1900).

Section 39 (6).—The functions of the Board of Trade as regards Crown foreshore were transferred to the Minister of Shipping by the Minister of Shipping (Transfer of Functions) Order, 1939 (S. R. & O. 1939, No. 1470). The functions of the Minister of Shipping were transferred to the Minister of War Transport by the Ministers of the Crown (Minister of War Transport) Order, 1941 (S. R. & O. 1941, No. 654), and the functions of the Minister of War Transport were transferred to the Minister of Transport by the Ministry of War Transport (Dissolution) Order, 1946 (S. R. & O. 1946, No. 375).

The functions of the Minister of Transport in relation to the management of Crown foreshore were transferred to the Commissioners of Crown Lands by the Coast Protection Act, 1949, s. 37.

147, 149 **Sections 40 and 42. Transfer of Functions.**—The functions of the Minister of Agriculture and Fisheries under ss. 40 and 42 of this Act were transferred to the Minister of Food by the Transfer of Functions (Food and Drugs) Order, 1948 (S. I. 1948, No. 107), Art. 6 (3).

151 **Section 42, Note (c).**—The fee of the Government Chemist is now four guineas.

152 **Part V. Transfer of Functions.**—The functions formerly exercisable by the Minister of Health under this part of the Act have now been transferred as follows :—

(1) *To the Home Secretary.*—On 1st January, 1947, the functions of the Minister of Health under ss. 47, 60 (2) (b) of this Act and the function of confirming byelaws under s. 56 of the Act were transferred to the Home Secretary by the Transfer of Functions (Secretary of State and Minister of Health) Order,

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152 1946 (S. R. & O. 1946, No. 1757), Art. 3. On 1st July, 1948, the functions of the Minister of Health under s. 46 of this Act and the function of confirming byelaws under s. 50 were likewise transferred to the Home Secretary by the Transfer of Functions (Secretary of State and Minister of Health) Order, 1948 (S. I. 1948, No. 865).

(2) *To the Minister of Housing and Local Government.*—On 1st May, 1951, the previously remaining functions of the Minister of Health under this part of the Act (including his previously remaining powers of confirming, under s. 91 of this Act, byelaws made under this part) were transferred to the Minister of Local Government and Planning by the Transfer of Functions (Minister of Health and Minister of Local Government and Planning) (No. 2) Order, 1951 (S. I. 1951, No. 753), Art. 2 (1) and First Schedule. The title of the Minister of Local Government and Planning has since been changed to " the Minister of Housing and Local Government " ; see the Minister of Local Government and Planning (Change of Style and Title) Order, 1951 (S. I. 1951, No. 1900).

The orders mentioned above were made under the Ministers of the Crown (Transfer of Functions) Act, 1946 (4 Halsbury's Statutes (2nd Edn.), 558).

Section 44. The Minister.—The powers of the Minister under this section are now transferred to the Minister of Housing and Local Government ; see the Noter-up, *supra*, as to transfer of functions under Part V.

153 **Section 44. General Notes.**—The provisions of the Livestock Industry Act, 1937, Part IV (1 Halsbury's Statutes (2nd Edn.), 369), relating to livestock markets are for the time being modified by the Defence (Agriculture and Fisheries) Regulations, 1939 (S. R. & O. 1939, No. 1303, as amended), which transfer the function of regulating livestock markets to the Minister of Agriculture and Fisheries. Those Regulations are for the time being kept in force until 10th December, 1952 by the Emergency Laws (Continuance Order), 1951 (S. I. 1951, No. 2117), made under the Emergency Laws (Miscellaneous Provisions) Act, 1947 (26 Halsbury's Statutes (2nd Edn.), 280).

Section 45, note (a).—The Companies Act, 1929, has been repealed and replaced by the Companies Act, 1948 (3 Halsbury's Statutes (2nd Edn.), 452). " Company " is now defined by s. 455 (1) of that Act and the special resolutions procedure previously dealt with by Part IV of the earlier Act is governed by the provisions of s. 141 of the later Act. For the interpretation of references to companies registered under the Companies Acts, see also s. 457 of the Companies Act, 1948.

Sections 46, 47. The Minister.—The functions of the Minister of Health under these sections have been transferred to the Home Secretary ; see the Noter-up to p. 152 of the Main Volume, p. A16, *ante*.

155, 159 **Sections 50, 56. Confirmation of byelaws.**—The function of confirming byelaws made under these sections is now transferred to the Home Secretary ; see the Noter-up to p. 152 of the Main Volume, p. A16, *ante*.

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161 **Section 57. General Notes.**—The Livestock (Restriction on Slaughtering) (No. 2) Order, 1940 (S. R. & O. 1940, No. 1856, as amended), has been revoked and replaced by the Livestock (Restriction on Slaughtering) Order, 1947 (S. R. & O. 1947, No. 1079), which makes corresponding provision.

The Slaughter of Animals Act, 1933 (19 Halsbury's Statutes (2nd Edn.), 294), has been amended by the Slaughter of Animals (Amendment) Act, 1951 (30 Halsbury's Statutes (2nd Edn.), 378).

Part V of the Livestock Industry Act, 1937 (1 Halsbury's Statutes (2nd Edn.), 378), is temporarily suspended by the Defence (Agriculture and Fisheries) Regulations, 1939 (S. R. & O. 1939, No. 1303) as amended. Those Regulations are kept in force until 10th December, 1952, by the Emergency Laws (Continuance Order), 1951 (S. I. 1951, No. 1770), made under the Emergency Laws (Miscellaneous Provisions) Act, 1947 (26 Halsbury's Statutes (2nd Edn.), 280).

Licensing of Knackers' Yards.—The occupier of a knacker's yard in England or Wales is for the time being required to hold a licence granted by the Minister of Food in addition to any other licence which he may be required to hold ; see the Knacker's Yard Order, 1948 (S. I. 1948, No. 2353) (made under Regs. 55 and 55AA of the Defence (General) Regulations, 1939 (S. R. & O. 1939, No. 927, as amended), which are continued in force until 10th December, 1952, by virtue of the Supplies and Services (Continuance) Order, 1951 (S. I. 1951, No. 2116)).

162 **Section 58.**—The power to confirm byelaws under this section has been transferred to the Minister of Housing and Local Government ; see the Noter-up to p. 152 of the Main Volume, p. A17, *ante*.

163 **Section 60.**—The power of determining questions under sub-s. (1) and of confirming byelaws under sub-s. (2) (a) is now transferred to the Minister of Housing and Local Government. The power to approve charges under sub-s. (2) (b) is now transferred to the Home Secretary ; see the Noter-up to p. 152 of the Main Volume, p. A16, *ante*.

164, 166 **Sections 61 and 62. The Minister.**—The powers of the Minister of Health under these sections are now transferred to the Minister of Housing and Local Government ; see the Noter-up to p. 152 of the Main Volume, p. A17, *ante*.

167 **Section 63, note (a).**—The Acts referred to are now repealed and replaced by the Diseases of Animals Act, 1950 (29 Halsbury's Statutes (2nd Edn.), 16).

168 **Section 65 (1).**—Paras. (b) and (c) of this subsection were repealed on 1st January, 1951, by the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950, ss. 36, 38 and Fifth Schedule. This repeal was consequential on the repeal of ss. 24, 27–29 of this Act by that Act. For provisions replacing the repealed provisions of this subsection, see ss. 9 (4), 29 (4), 30 (6) of the Act of 1950, pp. A73, A95, A96, *post*.

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169 **Section 65, note (b).**—The power to institute proceedings conferred by this subsection is now restricted by the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950, s. 7 (2), p. A70, *post*.

That provision replaces s. 4 (1) of the Food and Drugs (Milk and Dairies) Act, 1944 (cited in note (*b*) on p. 169 of the Main Volume), which was amended, before it came into operation, by the Agriculture (Miscellaneous Provisions) Act, 1949, s. 7 (2) and Schedule, Part I. S. 4 (1) of the Act of 1944 (as so amended) was brought into force on 1st October, 1949, by the Food and Drugs (Milk and Dairies) Act, 1944 (Appointed Day) Order, 1949 (S. I. 1949, No. 1587), and was repealed on 1st January, 1951, on the coming into operation of the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950, by ss. 36, 38 of, and the Fifth Schedule to, that Act.

Section 66 (2), (3).—By the Transfer of Functions (Food and Drugs) Order, 1948, (S. I. 1948, No. 107) Arts. 2 (a), 6 (1) (b), the functions of the Minister of Health under sub-s. (2) of this section are now to be exercised by that Minister and the Minister of Food acting jointly, and the functions of the Minister of Health under sub-s. (3) are transferred to the Minister of Food.

Section 66 (5). " Laid before Parliament."—S. 319 of the Public Health Act, 1936 (19 Halsbury's Statutes (2nd Edn.), 482), incorporated into this Act by s. 96 (p. 217 of the Main Volume), provides that regulations are to be laid before Parliament for thirty days and annulled if prayed against by either House during that period. Regulations are now subject to the Statutory Instruments Act, 1946 (24 Halsbury's Statutes (2nd Edn.), 440). Ss. 4 (3) and 5 (2) of that Act provide for copies of instruments to be laid before Parliament normally before they come into operation and for the extension of the period of thirty days to forty days. For the construction of references to the laying of documents before Parliament, see the Laying of Documents before Parliament (Interpretation) Act, 1948 (24 Halsbury's Statutes (2nd Edn.), 448).

171 **Section 68 (4). " The Minister."**—The powers of the Minister of Health in relation to the sampling of milk under sub-s. (4) of this section were transferred to the Minister of Food by the Transfer of Functions (Food and Drugs) Order, 1948 (S. I. 1948, No. 107), Art. 6 (1) (c).

172 **Section 68. General notes.**—The Sampling of Food Order, 1942, was revoked by the Sampling of Food (Revocation) Order, 1951 (S. I. 1951, No. 1458).

Note (d).—The Dangerous Drugs Acts, 1920 to 1950, were repealed as from 1st January, 1952 (S. I. 1951, No. 2124), by the Dangerous Drugs Act, 1951 (30 Halsbury's Statutes (2nd Edn.), 225).

172, 173 **Notes (h) and (i).**—The statement (at the head of p. 153) of the effect of the decision in *Evans* v. *Rogers*, [1946] K. B. 512 ; [1946] 2 All E. R. 64 ; 2nd Digest Supp., is misleading. Where under a contract with the Milk Marketing Board a farmer is directed to consign his milk to a depot of a particular consignor and informed that the milk will be collected from the farm collecting point and taken to the depot, the milk is " in transit " until it reaches the

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172, 173 depot and the depot is the " place of delivery " ; a sample may therefore be taken in the course of transit to the depot or at the depot (*Jones* v. *Edwards* (1948), 92 Sol. Jo. 298 ; *Nattras* v. *Lawes* (1948), 64 T. L. R. 479 ; 2nd Digest Supp.) ; but, if the milk is, unknown to the farmer, sent in under a diversion order from the depot of the consignor to a third party, it is no longer in transit and a sample taken on the premises of the third party does not comply with sub-s. (4) of this section (*Evans* v. *Rogers*, *supra*, as explained in *Jones* v. *Edwards* and *Nattras* v. *Lawes*, *supra*).

177 **Section 69, note (d).**—The power to prescribe the form of certificates is now vested in the Minister of Health and the Minister of Food acting jointly by virtue of the Transfer of Functions (Food and Drugs) Order, 1948 (S. I. 1948, No. 107), Art. 2 (c). The form printed at p. 256 of the Main Volume remains in force.

Note (e)—S. 23 of this Act is now repealed and replaced, but the Sale of Milk Regulations, 1939, remain in force ; see the Noter-up to p. 130 of the Main Volume, p. A14, *ante*.

180 **Section 70, note (j).**—The Milk and Dairies Order, 1929, Art. 29, is now revoked and replaced by the Milk and Dairies Regulations, 1949 (S. I. 1949, No. 1588), Reg. 27.

181 **Add to Note (k).**—A person taking a sample under the provisions of s. 70 (2) is under no duty to inform the seller or his agent, in a case where the name and address of the consignor do not appear on the container, and it is his duty to retain " the first-mentioned part of the sample " until the hearing of the case ; the seller has no right to have one of the samples submitted to him or to compel the sampling officer to deliver it (*Stone & Sons* (*Hounslow*), *Ltd.* v. *Pugh*, [1949] 1 K. B. 240 ; [1948] 2 All E. R. 818 ; 2nd Digest Supp.). But see *Fenn* v. *Gaze*, [1950] 2 All E. R. 819 ; 2nd Digest Supp., where it was held that the requirements of s. 70 (2) do not preclude the sampling officer from sending a sample to the consignor in cases where his address is known even though it does not appear on the container.

Section 71.—The reference in sub-s. (2) to Milk and Dairies Regulations is, by the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950, s. 36 (4), p. A101, *post*, to include a reference to Milk (Special Designation) Regulations.

Section 72.—The powers of the Minister of Health under this section were transferred to the Minister of Food by the Transfer of Functions (Food and Drugs) Order, 1948 (S. I. 1948, No. 107), Art. 6 (1) (c).

182 **Section 73.**—The functions of the Minister of Agriculture and Fisheries under this section were transferred to the Minister of Food by the Transfer of Functions (Food and Drugs) Order, 1948 (S. I. 1948, No. 107), Art. 6 (3) (a).

183 **Section 74 (2).**—The functions of the Minister of Health under s. 74 (2) were transferred to the Minister of Food by the Transfer of Functions (Food and Drugs) Order, 1948 (S. I. 1948, No. 107), Art. 6 (1) (d).

Section 75.—The functions of the Minister of Health under this section were transferred to the Minister of Local Government and

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183 Planning on 1st May, 1951, by the Transfer of Functions (Minister of Health and Minister of Local Government and Planning) (No. 2) Order, 1951 (S. I. 1951, No. 753), Art. 2 (1) and Schedule. The Title of the Minister of Local Government and Planning has since been changed to " the Minister of Housing and Local Government " ; see the Minister of Local Government and Planning (Change of Style and Title) Order, 1951 (S. I. 1951, No. 1900).

184 **Section 76.**—The functions of the Minister of Health under the Public Health Act, 1936 (19 Halsbury's Statutes (2nd Edn.), 302), and the Public Health (London) Act, 1936 (15 Halsbury's Statutes (2nd Edn.), 887), were, in general, transferred to the Minister of Local Government and Planning (now entitled the Minister of Housing and Local Government (S. I. 1951, No. 1900)) by the Transfer of Functions (Minister of Health and Minister of Local Government and Planning) Order, 1951 (S. I. 1951, No. 142). The powers of the Minister of Health to make orders under s. 3 of the Public Health Act, 1936, and s. 9 of that Act (so far as it relates to health authorities) and his power to make orders under s. 6 of the Public Health (London) Act, 1936, were excepted from the transfer.

187 **Note (g).**—See the Noter-up to p. 167 of the Main Volume, p. A18, *ante*.

192 **Section 80, note (a).**—Further amendments to summary jurisdiction procedure have been made by the Criminal Justice Act, 1948 (14 Halsbury's Statutes (2nd Edn.), 999).

195 **Add to Note (d).**—In *Leach* v. *United Dairies, Ltd.*, [1949] 1 All E. R. 1023 ; 2nd Digest Supp., it was held that when a Sampling Officer who was also a Sanitary Officer took a bottle of milk in his capacity as Sanitary Officer the limitation of twenty-eight days did not apply.

199 **Section 81, note (b).**—The power to prescribe the form of certificates is now vested in the Minister of Health and the Minister of Food acting jointly, by virtue of the Transfer of Functions (Food and Drugs) Order, 1948 (S. I. 1948, No. 107), Art. 2 (d). The form printed at p. 256 of the Main Volume remains in force.

Add to Note (c).—The decision in *Hewitt* v. *Taylor* (cited in the third paragraph of note (*c*)) was followed by a Divisional Court in *Preston* v. *Fennell*, [1951] 1 K. B. 16 ; [1950] 1 All E. R. 1099 ; 2nd Digest Supp.

If the public analyst is called as a witness, his certificate ceases to be evidence and the court must be satisfied by his evidence that an offence has been committed (*Stone & Sons (Hounslow), Ltd.* v. *Pugh*, [1949] 1 K. B. 240 ; [1948] 2 All E. R. 818 ; 2nd Digest Supp. ; *cf.* the Scottish case of *Callan* v. *MacFadyean*, [1950] S. C. (J.) 82). The fact that assistants helped in the analysis does not make it necessary to call the assistants (*Stone & Sons (Hounslow) Ltd.* v. *Pugh*, *supra*).

Where it is alleged that an article of food is not of the quality demanded, evidence must be adduced to show both the standard and how far the sample falls short of it. The analyst's certificate should be in such a form that the ordinary person can understand

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199 the allegations made. Thus in a case where the certificate relating to the analysis of a sample of vinegar showed that the sample contained 3·54 per cent. acetic acid and alleged that it was 11·5 per cent. deficient in acetic acid, it was held that in the absence of any evidence to prove the standard acetic acid content, no offence under s. 81 (1) had been proved (*Gammack* v. *Jackson Wyness, Ltd.*, [1948] 2 All E. R. 1056 ; 2nd Digest Supp.). A certificate is not to be rejected merely because, in accordance with the prescribed form, it expresses the result of the analysis as a statement of opinion and not of fact (*McCulloch* v. *Hannam*, [1951] 1 All E. R. 402, *n.*).

200 **Section 83 (1).**—Where a defendant has laid information under sub-s. (1) of this section against a third party and given due notice to the prosecution, failure to effect service of a summons on the third party does not deprive the defendant of his rights under that subsection (*Malcolm* v. *Cheek*, [1948] 1 K. B. 400 ; [1947] 2 All E. R. 881 ; 2nd Digest Supp.).

Both the original defendant and the third party may be convicted of the offence (*Elkington* v. *Kesley*, [1948] 2 K. B. 256 ; [1948] 1 All E. R. 786 ; 2nd Digest Supp.).

The original defendant must be convicted unless he can satisfy the court that the contravention charged was due to the act or default of the third party and that he himself used all due diligence (*Moore* v. *Ray*, [1951] 1 K. B. 98 ; [1950] 2 All E. R. 561 ; 2nd Digest Supp.).

If the prosecution wish to appeal by way of case stated against a defendant who has taken advantage of s. 83 (1), the third party to the case must be joined ; *semble*, where a third party appeals, he must serve both prosecutor and defendant with notices of appeal (*Elkington* v. *Kesley*, *supra*).

201 **Section 83 (2) (a).** —A third party may cross-examine a defendant as to credit and character (*Elkington* v. *Kesley*, *supra*).

202 **Note (e).**—The first paragraph of this note now needs amendment.

S. 83 (3) refers to " act or default " not to deliberate or negligent act or default ; an act or default is wrongful if it constitutes an offence under the Act ; the existence or absence of *mens rea* or negligence is therefore irrelevant in a case where the Act imposes an absolute duty (*Lindley* v. *Horner* (*George W.*) *& Co., Ltd.*, [1950] 1 All E. R. 234 ; 2nd Digest Supp. ; *Lamb* v. *Sunderland and District Creamery, Ltd.*, [1951] 1 All E. R. 923). But, where a manufacturer has parted with his product before a change of the law and it is subsequently sold by retail at a time when it no longer complies with the law, the offence committed by the retailer is not due to the act or default of the manufacturer (*Noss Farm Products, Ltd.*, v. *Lilico*, [1945] 2 All E. R. 609 ; 2nd Digest Supp.).

203 **Section 84 (1).**—The reference in sub-s. (1) to Part II of this Act is to be construed as a reference to the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950 ; see s. 36 (5) of that Act.

205 **Note (b).**—An excise certificate for the removal of duty-paid spirits given pursuant to s. 108 of the Spirits Act, 1880 (21 Halsbury's

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205 Statutes (2nd Edn.), 491), is a written warranty for the purposes of s. 84 (1) of this Act (*Follett* v. *Luke*, [1947] K. B. 289 ; [1947] 1 All E. R. 35 ; 2nd Digest Supp.).

210 **Section 86.**—The application of this section is extended by Reg. 20 (9) of the Milk and Dairies Regulations, 1949 (S. I. 1949, No. 1588), to disputes as to compensation under Reg. 20 (6) of these Regulations.

211 **Section 88. Appeal by way of Case Stated.**—As to appeals from decisions under s. 83 of this Act, see *Elkington* v. *Kesley*, cited in the Noter-up to p. 200 of the Main Volume, p. A22, *ante*.

212 **Section 88, note (a).**—S. 37 (1) of the Criminal Justice Administration Act, 1914, and s. 25 of the Criminal Justice Act, 1925, were repealed by the Criminal Justice Act, 1948, s. 83 and Tenth Schedule, Part I. Provisions concerning appeals from convictions by courts of summary jurisdiction are contained in s. 36 of the last-mentioned Act (14 Halsbury's Statutes (2nd Edn.), 1016).

Note (c).—The effect of s. 1 of the Summary Jurisdiction (Appeals) Act, 1933, was to substitute a new s. 31 in the Summary Jurisdiction Act, 1879. S. 31 of the Summary Jurisdiction Act, 1879, as so substituted has been amended by the Criminal Justice Act, 1948, ss. 79, 83 and Ninth and Tenth Schedules, and no longer requires the appellant to enter into a recognisance to prosecute the appeal ; see s. 31 of the Summary Jurisdiction Act, 1879 (14 Halsbury's Statutes (2nd Edn.), 869).

213 **Section 91.**—Powers of confirming byelaws originally exercisable under this section by the Minister of Health have been transferred to other Ministers as follows :—

(1) *To the Minister of Food.*—The power of confirming byelaws made under s. 15 of this Act (p. 120 of the Main Volume), which relates to the handling, wrapping, etc., of food and the sale of food in the open air, was transferred on 1st March, 1948, to the Minister of Food by the Transfer of Functions (Food and Drugs) Order, 1948 (S. I. 1948, No. 107), Art. 6 (1) (e).

(2) *To the Home Secretary.*—The power of confirming byelaws made under s. 56 of this Act (p. 159 of the Main Volume), which relates to markets maintained by local authorities, was transferred on 1st January, 1947, to the Home Secretary by the Transfer of Functions (Secretary of State and Minister of Health) Order, 1946 (S. R. & O. 1946, No. 1757), Art. 3 (1) (a) and Schedule. The power of confirming byelaws made under s. 50 of this Act (p. 50 of the Main Volume), which relates to the imposition of restrictions on sales outside markets, was likewise transferred on 1st July, 1948, to the Home Secretary by the Transfer of Functions (Secretary of State and Minister of Health) Order, 1948 (S. I. 1948, No. 865).

(3) *To the Minister of Local Government and Planning.*—The power of confirming byelaws made under Part V (ss. 44–63) of this Act (other than byelaws made under ss. 50 and 56, as to which, see (2) *supra*), was transferred on 1st May, 1951, to the Minister of Local Government and Planning by the Transfer of Functions (Minister of Health and Minister of Local Govern-

PAGE 213 ment and Planning) (No. 2) Order, 1951, (S. I. 1951, No. 753), Art. 2 (1) and First Schedule.

The title of the Minister of Local Government and Planning has since been changed to " the Minister of Housing and Local Government " by the Minister of Local Government and Planning (Change of Style and Title) Order, 1951 (S. I. 1951, No. 1900).

All the Orders mentioned above were made under the Ministers of the Crown (Transfer of Functions) Act, 1946 (4 Halsbury's Statutes (2nd Edn.), 558).

Section 91, note (a).—The London County Council (General Powers) Act, 1934, ss. 38–41, were repealed by the London Government Act, 1939, s. 207 and Eighth Schedule. Corresponding provision is made by ss. 147–149 of the latter Act (15 Halsbury's Statutes (2nd Edn.), 1142–1145).

213, 214 **Section 92. Section no longer applicable to Regulations concerning Milk.**—By the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950, ss. 36, 38 and Fifth Schedule, the words " Milk and Dairies Regulations " in sub-s. (1) of this section were repealed as from 1st January, 1951. This section in consequence no longer applies to such Regulations.

This section also ceased on the above date to apply in relation to Milk (Special Designation) Regulations, to which its application was extended, subject to modifications, by the Food and Drugs (Milk and Dairies) Act, 1944, s. 4 (2) (p. 252 of the Main Volume), which was brought into force on 1st October, 1949, by the Food and Drugs (Milk and Dairies) Act, 1944 (Appointed Day) Order, 1949 (S. I. 1949, No. 1587). The last-mentioned subsection (which also modified the application of this section in relation to Milk and Dairies Regulations) had been amended before it came into operation by the Transfer of Functions (Food and Drugs) Order, 1948 (S. I. 1948, No. 107), Arts. 3 (3) and 4, and by the Agriculture (Miscellaneous Provisions) Act, 1949, s. 7 (2) and Schedule, Part I (see the Noter-up to p. 252 of the Main Volume, p. A30, *post*). Further provisions in relation to the application of this section to Milk (Special Designation) Regulations were made by the Milk (Special Designations) Act, 1949, which came into operation on 1st October, 1949. S. 11 (2) and (3) of that Act excluded the operation of sub-s. (2) (c) of this section in relation to the revocation, refusal or suspension of licences to use special designations, while s. 13 of that Act authorised the making of regulations excluding the Third Schedule to this Act in relation to the procuring of samples for the purpose of enforcing the conditions of licences. All the above-mentioned enactments were repealed on 1st January, 1951, by the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950, ss. 36–38 and Fifth Schedule.

Provisions replacing this Section in relation to Milk and Dairies Regulations and Milk (Special Designation) Regulations.—In so far as it applied to Milk and Dairies Regulations and Milk (Special Designation) Regulations, this section and the provisions extending or modifying it are now replaced by the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950 (pp. A63 *et seq.*, *post*), as follows :—

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Food and Drugs Act, 1938	*Food and Drugs (Milk, Dairies and Artificial Cream) Act*, 1950	
	(*a*) *In relation to Milk and Dairies Regulations*	(*b*) *In relation to Milk (Special Designation) Regulations*
s. 92 (2) (a)	s. 7 (6)	s. 18 (4)
s. 92 (2) (b)–(d)	s. 6	s. 17 (3)
s. 92 (2) (e)	s. 7 (5)	s. 18 (3)
s. 92 (2) (f)	s. 6	s. 17 (3)
s. 92 (3)	s. 7 (1)	s. 18 (1)
s. 92 (4)	s. 4 (2)	s. 15 (2)
s. 92 (5)	s. 33	s. 33
s. 92 (6)	s. 7 (3)	s. 18 (2)
Food and Drugs (Milk and Dairies) Act, 1944 (*as amended by the Agriculture (Miscellaneous Provisions) Act*, 1949)		
s. 4 (2) (b)	s. 7 (1), proviso	s. 18 (1) proviso
Milk (Special Designations) Act, 1949		
s. 11 (2), (3)		Third Schedule, paras. 2, 3
s. 13		s. 18 (4)

Section 92 (5).—S. 319 of the Public Health Act, 1936 (19 Halsbury's Statutes (2nd Edn.), 482), incorporated into this Act by s. 96 (1) (p. 217 of the Main Volume), requires regulations to be laid before Parliament for thirty days and renders regulations subject to annulment if prayed against by either House. Regulations under this section are now subject to the provisions of the Statutory Instruments Act, 1946 (24 Halsbury's Statutes (2nd Edn.), 440). Ss. 4 (3) and 5 (2) of that Act make provision for copies of instruments to be laid before Parliament normally before they come into operation and for the extension of the period of thirty days to forty days. For the construction of references to the laying of documents before Parliament, see the Laying of Documents before Parliament (Interpretation) Act, 1948 (24 Halsbury's Statutes (2nd Edn.), 448).

Section 92 (6).—The functions of the Minister of Health under this subsection were transferred to the Minister of Local Government and Planning by the Transfer of Functions (Minister of Health and Minister of Local Government and Planning) (No. 2) Order, 1951 (S. I. 1951, No. 753), Art. 2 and First Schedule. The title of the Minister of Local Government and Planning has since been changed to " the Minister of Housing and Local Government " by the Minister of Local Government and Planning (Change of Style and Title) Order, 1951 (S. I. 1951, No. 1900).

215 **Section 93.**—The powers of the Minister of Health under this section were transferred to the Minister of Food by the Transfer of Functions (Food and Drugs) Order, 1948 (S. I. 1948, No. 107), Art. 6 (1) (f).

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216 **Section 95.**—The functions of the Minister of Health under this section were transferred on 1st May, 1951, to the Minister of Local Government and Planning by the Transfer of Functions (Minister of Health and Minister of Local Government and Planning) (No. 2) Order, 1951 (S. I. 1951, No. 753), Art. 2 (1) and First Schedule. The title of the Minister of Local Government and Planning has since been changed to " the Minister of Housing and Local Government " by the Minister of Local Government and Planning (Change of Style and Title) Order, 1951 (S. I. 1951, No. 1900).

217, 218 **Section 96 (1).**—A uniform procedure for the compulsory acquisition of land by local authorities (including local authorities in London) by means of compulsory purchase orders is now contained in the Acquisition of Land (Authorisation Procedure) Act, 1946 (3 Halsbury's Statutes (2nd Edn.) 1064). By s. 6 of, and the Fourth Schedule to, that Act, the provisions of s. 306 of the Public Health Act, 1936 (incorporated by sub-s. (1) of this section), have been amended accordingly, and the provisions of the Local Government Act, 1933, referred to in sub-s. (2) of this section, have ceased to have effect.

General Default Powers.—The functions of the Minister of Health under ss. 321–325 of the Public Health Act, 1936 (as incorporated by sub-s. (1) of this section), have been transferred to the Minister of Food by the Transfer of Functions (Food and Drugs) Order, 1948 (S. I. 1948, No. 107), Art. 8, except in relation to the functions of local authorities under ss. 17, 18, 37 and 39 of this Act and Part V thereof (ss. 44–63).

219 **Note (f).**—The functions of the Minister of Health under s. 303 of the Public Health Act, 1936, in so far as it relates to arbitration as to compensation payable under s. 10 (4) of this Act, were transferred to the Minister of Food by the Transfer of Functions (Food and Drugs) Order, 1948 (S. I. 1948, No. 107), Art. 6 (1) (g).

The Arbitration Acts previously in force have been repealed and replaced by the Arbitration Act, 1950 (29 Halsbury's Statutes (2nd Edn.), 89).

Note (g).—So far as they relate to functions transferred to a Minister or Ministers by the Transfer of Functions (Food and Drugs) Order, 1948 (S. I. 1948, No. 107), the functions of the Minister of Health under s. 318 of the Public Health Act, 1936, were, by Art. 7 of that Order, transferred to the said Minister or Ministers.

220 **Note (j).**—See the Noter-up to s. 96 (1), *supra*.

Section 98.—This section was repealed by the Statute Law Revision Act, 1950 (29 Halsbury's Statutes (2nd Edn.), 809).

225 **Note (h).**—The Shops Act, 1934, and the Shops Act, 1912, have been repealed and replaced by the Shops Act, 1950 (29 Halsbury's Statutes (2nd Edn.), 186). *Cf.* the definitions contained in s. 74 of the last-mentioned Act ; 29 Halsbury's Statutes (2nd Edn.), 246.

226 **Section 101 (1).**—This subsection was repealed by the Statute Law Revision Act, 1950 (29 Halsbury's Statutes (2nd Edn.), 809).

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227 **Note (b).**—A saving corresponding to that contained in sub-s. (3) of this section is contained in s. 36 (2) of the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950, p. A101, *post*, in relation to instruments made under the enactments (including Part II of this Act) repealed by that Act.

228 Certain of the Regulations listed on p. 228 of the Main Volume have been amended or replaced, as follows :—

The Public Health (Preservatives, etc., in Food) Regulations, 1925 to 1940, have been further amended by S. I. 1948, No. 1118 ; see the Noter-up to p. 261 of the Main Volume, p. A31, *post*.

The Public Health (Preservatives, etc., in Food) Regulations (Scotland), 1925, have been amended by S. R. & O. 1940, No. 649.

The Public Health (Condensed Milk) Regulations, 1923, have been further amended by S. I. 1948, No. 1122 ; see the Noter-up to p. 272 of the Main Volume, p. A32, *post*.

A reference to the Public Health (Condensed Milk) Regulations (Scotland), 1931 (S. R. & O. 1931, No. 116, as amended by S. R. & O. 1943, No. 1061), should be substituted for the reference to the Public Health (Condensed Milk) Regulations (Scotland), 1930.

The Public Health (Dried Milk) Regulations, 1923, have been further amended by S. I. 1948, No. 1123 ; see the Noter-up to p. 278 of the Main Volume, p. A32, *post*.

The Public Health (Meat) Regulations, 1924, have been further amended by S. I. 1948, No. 1119 ; see the Noter-up to p. 293 of the Main Volume, p. A33, *post*.

A reference to the Public Health (Meat) Regulations (Scotland), 1932 (S. R. & O. 1932, No. 362, as amended by S. I. 1948, No. 1433), should be substituted for the reference to the Public Health (Meat) Regulations (Scotland), 1930, and the Public Health (Meat Inspection) Regulations (Scotland), 1922.

A reference to the Public Health (Imported Food) Regulations (Scotland), 1937 (S. R. & O. 1937, No. 509, as amended by S. I. 1948, No. 1434), should be substituted for the reference to the Public Health (Imported Food) Regulations (Scotland), 1930.

The Public Health (Shell-Fish) Regulations, 1934, have been amended by S. I. 1948, No. 1120 ; see the Noter-up to pp. 302 and 303 of the Main Volume, p. A33, *post*.

The Public Health (Imported Food) Regulations, 1937, have been amended by S. I. 1948, Nos. 886, 1121 ; see the Noter-up to p. 284 of the Main Volume, p. A32, *post*.

The Milk and Daries Order, 1926, as amended, has been revoked and replaced by the Milk and Dairies Regulations, 1949 (S. I. 1949, No. 1588).

The Milk (Special Designations) Order, 1936, as amended, has been revoked and replaced by the Milk (Special Designation) (Pasteurised and Sterilised Milk) Regulations, 1949 (S. I. 1949, No. 1589, as amended by S. I. 1950, No. 409), and the Milk (Special Designation) (Raw Milk) Regulations, 1949 (S. I. 1949, No. 1590, as amended by S. I. 1950, No. 410).

231 **First Schedule.**—Part I of this Schedule was repealed on 1st January, 1951, by the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950, ss. 36, 38 and Fifth Schedule. It is replaced by the Second Schedule to that Act, p. A104, *post*.

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231 **Third Schedule.**—By the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950, s. 18 (4), p. A81, *post*, Milk (Special Designation) Regulations may, in dealing with the procurement of samples for the purpose of enforcing conditions of licences, exclude provisions of this Schedule not appropriate for the purpose.

232 **Fourth Schedule.**—This Schedule was repealed by the Statute Law Revision Act, 1950 (29 Halsbury's Statutes (2nd Edn.), 809).

PHARMACY AND MEDICINES ACT, 1941

237 **Section 8, note (a).**—A letter, enclosing a circular, stating, in reply to a request for information, that a preparation was a cure for tuberculosis, was held to be an advertisement (*Earp* v. *Roberts*, [1947] 1 All E. R. 136 ; 2nd Digest Supp.).

Cf. with this section, the Cancer Act, 1939, s. 4 (15 Halsbury's Statutes (2nd Edn.), 197), which contains provisions as to advertisements relating to the treatment of cancer.

240 **Section 11 (4).**—This subsection was repealed by the Statute Law Revision Act, 1950 (29 Halsbury's Statutes (2nd Edn.), 809).

Note (a).—The Court of Appeal reversed the decision of WYNN-PARRY, J., in *Potter and Clarke, Ltd.* v. *Pharmaceutical Society of Great Britain* (cited on pp. 240, 241 of the Main Volume), and held that, unless there is a reference to the nature of the ailment or ailments for which a substance is to be taken, the substance has not been recommended as a medicine within the meaning of s. 17 of this Act and can therefore be sold by an unqualified person (*Potter and Clarke, Ltd.* v. *Pharmaceutical Society of Great Britain*, [1947] Ch. 483 ; [1947] 1 All E. R. 802 ; 2nd Digest Supp.).

On February 28, 1948, the Pharmaceutical Society published in the *Pharmaceutical Journal* a lengthy list of words and phrases, the use of which in the Society's opinion, would constitute a recommendation. This list is reproduced in Appendix II, p. A114, *post*.

241 **Note (b).**—For the Poisons List as amended, see the Poisons List Order, 1950 (S. I. 1950, No. 1213, as amended by S. I. 1951, No. 143).

242 **Section 12 (2) (b).**—The word " shop " in s. 12 (2) (b) of this Act means some sort of structure where regular business is carried on and does not include a temporary stall in an uncovered part of a market (*Summers* v. *Roberts*, [1944] K. B. 106 ; [1943] 2 All E. R. 757 ; 2nd Digest Supp.).

243 **Section 12 (6).**—This subsection was repealed by the Statute Law Revision Act, 1950 (29 Halsbury's Statutes (2nd Edn.), 809).

245 **Section 17 (1). " British Pharmacopoeia."**—Provision for the publication of new editions of the British Pharmacopoeia is contained in the Medical Act, 1950, s. 23 (29 Halsbury's Statutes (2nd Edn.), 576). By sub-s. (6) of that section, s. 54 of the Medical Act, 1858, is repealed, and special provision is made for the construction of references in ss. 11 and 12 of this Act to the British Pharmacopoeia.

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246 **Section 17 (1). "Shop."**—The Shops Act, 1912, has been repealed and replaced by the Shops Act, 1950, which consolidates the provisions of earlier Acts. The definition of "shop" contained in s. 19 of the repealed Act is repeated in s. 74 (1) of the consolidating Act (29 Halsbury's Statutes (2nd Edn.), 247).

See also the Noter-up to s. 12 (2) (b) of this Act, p. A28, *ante*.

FOOD AND DRUGS (MILK AND DAIRIES) ACT, 1944

249 **Commencement and subsequent Repeals.**—This Act was brought into operation (as amended by the enactments referred to in the Noter-up to ss. 1–4, *post*) on 1st October, 1949, by the Food and Drugs (Milk and Dairies) Act, 1944 (Appointed Day) Order, 1949 (S. I. 1949, No. 1587), made under s. 9 of the Act.

On 1st January, 1951, ss. 1–4 and 8 (2) of this Act and the Schedule thereto were wholly repealed (together with the enactments amending them and Part II of the Food and Drugs Act, 1938), and s. 8 (1) of this Act was repealed in part, by the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950, ss. 36, 38 and Fifth Schedule, pp. A100, A101, A109, *post*. By s. 36 (2) of that Act, regulations made under enactments repealed by that Act are continued in force.

The provisions by which the repealed sections of this Act have been amended and replaced are noted to those sections, *infra*.

249–251 **Section 1.**—This section was brought into force on 1st October, 1949, but was wholly repealed (together with s. 20 of the principal Act) on 1st January, 1951; see the Noter-up to p. 249 of the Main Volume, *supra*.

This section had been amended before it was brought into force by Art. 3 (now repealed) of the Transfer of Functions (Food and Drugs) Order, 1948 (S. I. 1948, No. 107) (which came into force on 1st March, 1948). That Article repealed sub-s. (1) of this section and transferred the function of making regulations under s. 20 of the principal Act to the Minister of Health, the Minister of Food and the Minister of Agriculture, acting jointly. Provision for the payment of remuneration to the chairman of the tribunal set up under sub-s. (3) of this section was made by the Agriculture (Miscellaneous Provisions) Act, 1949, s. 7 (3) (which came into force on 31st May, 1949, and is likewise repealed).

Provisions corresponding to this section and the enactments amending it are now embodied in the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950, as follows:—

Food and Drugs (Milk and Dairies) Act, 1944	*Food and Drugs (Milk, Dairies and Artificial Cream) Act*, 1950
s. 1 (1)	s. 4 (1), p. A68, *post* (replacing Art. 3 of the Transfer of Functions (Food and Drugs) Order, 1948).
s. 1 (2), (3)	s. 3 and First Schedule, Part II, paras. 7, 8, pp. A68, A103, *post*.
s. 1 (4)	s. 35 (2), p. A99, *post*.
s. 1 (5)	s. 1 (1) (a), p. A65, *post*
s. 1 (6)	s. 1 (1) (b), p. A65, *post*.

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249–251	*Agriculture (Miscellaneous Provisions) Act*, 1949	*Food and Drugs (Milk, Dairies and Artificial Cream) Act*, 1950
	s. 7 (3)	First Schedule, Part II, para. 9, p. A104, *post*.

251 **Section 2.**—This section was brought into force on 1st October, 1949, but was repealed (together with s. 21 of the principal Act) on 1st January, 1951 ; see the Noter-up to p. 249 of the Main Volume, p. A29, *ante*.

This section had previously been amended by the Transfer of Functions (Food and Drugs) Order, 1948 (S. I. 1948, No. 107), Art. 4 (now likewise repealed), which came into force on 1st March, 1948, and provided that references in sub-s. (2) to the Minister of Health should be construed as references to the Minister of Health and the Minister of Food acting jointly.

The effect of this section (as amended) is now embodied in ss. 13 (1), 15 (1) and 17 (1) of the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950, pp. A75, A78, A79, *post*.

252 **Section 3.**—This section was brought into force on 1st October, 1949, but was repealed (together with the Schedule to this Act and s. 22 of the principal Act) on 1st January, 1951 ; see the Noter-up to p. 249 of the Main Volume, p. A29, *ante*.

Provision corresponding to s. 22 of the principal Act as amended by this section is now embodied in Part I of the First Schedule to the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950, p. A102, *post*.

Section 4.—This section was brought into force on 1st October, 1949, but was repealed on 1st January, 1951 ; see the Noter-up to p. 249 of the Main Volume, p. A29, *ante*. For amendments of the section prior to repeal and replacing provisions, see the Noter-up to sub-ss. (1)–(3), *infra*.

Section 4 (1).—Before it had been brought into force, sub-s. (1) of this section was amended by the Agriculture (Miscellaneous Provisions) Act, 1949, s. 7 (2) and Schedule (now repealed), which come into operation on 31st May, 1949, and which inserted at the end of the subsection the words " except any such regulation as is made for the purposes of paragraph (f) or paragraph (g) of subsection (1) of section twenty of the principal Act." As so amended, sub-s. (1) of this section is now replaced by the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950, s. 7 (2) p. A70, *post*.

Section 4 (2).—By virtue of the repeal of the reference to Milk and Dairies Regulations in s. 92 (1) of the principal Act and the repeal of this subsection by the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950, s. 92 of the principal Act no longer applies to Milk and Dairies Regulations or Milk (Special Designation) Regulations ; see the Noter-up to pp. 213, 214 of the Main Volume, p. A24, *ante*.

Prior to its repeal, para. (a) of this subsection was amended by the Transfer of Functions (Food and Drugs) Order, 1948 (S. I. 1948, No. 107), Arts. 3 (3) and 4, which came into force on 1st March, 1948, and made amendments in para. (a) consequential on the inclusion by that Order of the Minister of Food among the

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252 regulation-making authorities under ss. 20 and 21 of the principal Act. Para. (b) was amended by the Agriculture (Miscellaneous Provisions) Act, 1949, s. 7 (2) and Schedule, which inserted after the words " dairy farmer " in that paragraph the like words to those inserted in sub-s. (1) of this section by that Act; see the Noter-up to sub-s. (1) of this section, *supra*.

The effect of para. (a) of this subsection (as amended) is now embodied in the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950, ss. 4 (1) and 15 (1), pp. A68, A78, *post*. Para. (b) is now replaced by the provisos to ss. 7 (1) and 18 (1) of that Act, pp. A70, A81, *post*.

253 **Section 4 (3).**—This subsection is now replaced by ss. 5 and 16 of the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950, pp. A69, A79, *post*.

Section 8.—All the definitions in sub-s. (1) of this section (except that of " war service ") and the whole of sub-s. (2) were repealed by the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950, ss. 36, 38 and Fifth Schedule. Definitions of " dairy farm " (including provision corresponding to sub-s. (2) of this section), " dairy farmer " and " raw milk " are contained in s. 34 (1) of that Act, p. A97, *post*.

254 **Section 9 (2).**—This Act was brought into operation on 1st October, 1949; see the Noter-up to p. 249 of the Main Volume, p. A29, *ante*.

Schedule.—The Schedule to this Act was repealed on 1st January, 1951; see the Noter-up to p. 249 and p. 252 of the Main Volume, pp. A29, A30, *ante*.

GROUP I.—UNDER FOOD AND DRUGS ACT, 1938

257 **Public Analysts Regulations, 1939, Note (a).**—See additional cases cited in the Noter-up to p. 199 of the Main Volume, p. A21 *ante*.

259 **Ice Cream (Heat Treatment) Regulations, 1946.**—These Regulations have been revoked and replaced by Ice-Cream (Heat Treatment, etc.) Regulations, 1947 (S. R. & O. 1947, No. 612, as amended by S. I. 1948, No. 819 and S. I. 1951, No. 67).

GROUP II.—UNDER PUBLIC HEALTH ACTS

261 **Public Health (Preservatives, etc., in Food) Regulations.**—The expression " the Minister " in these Regulations now means the Minister of Food; the Regulations, as amended, may be cited as the Public Health (Preservatives, etc., in Food) Regulations, 1925 to 1948 (Public Health (Preservatives, etc., in Food) (Amendment) Regulations, 1948 (S. I. 1948, No. 1118)).

Notes.—The Scottish regulations have been further amended by S. R. & O. 1940, No. 649. The Milk and Dairies (Scotland) Order, 1934 (S. R. & O. 1934, No. 675), Art. 10, has replaced the Milk and Dairies (Scotland) Order, 1925 (S. R. & O. 1925, No. 883), Art. 11.

264 **Note (a).**—For amendments to Reg. 60CAA of the Defence (General) Regulations, 1939, see the Noter-up to p. 357 of the Main Volume, p. A34, *post*.

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264 **Note (b).**—The Bacon (Control and Prices) Order, 1944 (S.R.&O. 1944, No. 164), Art. 5, is now replaced by the Bacon (Control and Prices) Order, 1950 (S. I. 1950, No. 770, as amended by S. I. 1950, No. 1460, S. I. 1951, Nos. 75, 1523 and 2265, and S. I. 1952, No. 279), Art. 5.

269 **Note (a).**—The reference in this note should be to S. R. & O. 1925, No. 814 (as amended by S. R. & O. 1926, No. 1603, S. R. & O. 1927, No.625 and S. R. & O. 1940, No. 649), and not to S. R. & O. 1921, No. 814.
Note (b).—The Order referred to is revoked ; see *infra*.

271 **Fruit Pulp Order, 1945.**—This Order was revoked by the Fruit Pulp Order, 1948 (S. I. 1948, No. 1638), which was in turn revoked by the Fruit Pulp (Revocation) Order, 1950 (S. I. 1950, No. 558), which ended price and licensing control of fruit pulp.

272 **Preservation Solution.**—The strength of the normal solution is believed to be 6 per cent.

Public Health (Condensed Milk) Regulations, 1923, 1927 and 1943.—The expression " the Minister " in these Regulations now means the Minister of Food ; the Regulations as amended may be cited as the Public Health (Condensed Milk) Regulations, 1923 to 1948 (Public Health (Condensed Milk) (Amendment) Regulations, 1948 (S. I. 1948, No. 1122)).

278 **Scotland.**—A reference to the Public Health (Condensed Milk) Regulations (Scotland), 1931 (S. R. & O. 1931, No. 116, as amended by S. R. & O. 1943, No. 1061), should be substituted for the reference in the notes to the Second Schedule.

Public Health (Dried Milk) Regulations, 1923, 1927 and 1943.—The expression " the Minister " in these Regulations now means the Minister of Food ; the Regulations as amended may be cited as the Public Health (Dried Milk) Regulations, 1923 to 1948 (Public Health (Dried Milk) (Amendment) Regulations, 1948 (S. I. 1948, No. 1123)).

284 **Scotland.**—A reference to the Public Health (Dried Milk) Regulations (Scotland), 1931 (S. R. & O. 1931, No. 1, as amended by S. R. & O. 1943, No. 1061), should be substituted for the reference in the notes to the Schedule.

Public Health (Imported Food) Regulations, 1937, Reg. 2(1).—This regulation has been amended by the substitution of "Minister of Food " for " Minister of Health," by the Public Health (Imported Food) (Amendment No. 2) Regulations, 1948 (S. I. 1948, No. 1121).

285 **Reg. 2 (2). Official certificate.**—Recognition of official certificates is notified in circulars issued, until 1948, by the Ministry of Health, and, from 1948, by the Ministry of Food as well as by notices in the *London Gazette*.

291 **Reg. 20 (1).**—This regulation has been amended by the substitution of " Minister of Health " for " Minister," by the Public Health (Imported Food) (Amendment No. 2) Regulations, 1948 (S. I. 1948, No. 1121).

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291 **First Schedule.**—This Schedule has been amended by the addition of the words " other than mutton and lamb " after the word " meat " in para. (c), by the Public Health (Imported Food) Amendment Regulations, 1948 (S. I. 1948, No. 886).

As so amended, the Regulations may be cited as the Public Health (Imported Food) Regulations, 1937 and 1948.

293 **Public Health (Meat) Regulations, 1924 and 1935.**—The expression " the Minister " in these Regulations now means the Minister of Food; the Regulations as amended, may be cited as the Public Health (Meat) Regulations, 1924 and 1948 (Public Health (Meat) (Amendment) Regulations, 1948 (S. I. 1948, No. 1119)).

Recommendations for the amendment of these Regulations and of Ministry of Health Memo. 62 Foods (reprinted 1951), which relates to meat inspection, were contained in the Report of the Interdepartmental Committee on Meat Inspection (1951).

302 **Public Health (Shell-Fish) Regulations, 1934, Reg. 7.**—After the word " Minister " where it first appears, the words " Minister of Food " have been inserted (Public Health (Shell-Fish) (Amendment) Regulations, 1948 (S. I. 1948, No. 1120)).

303 **Reg. 10.**—After the word " Minister " where it first appears, the words " to the Minister of Food " have been similarly inserted; the Regulations as so amended may be cited as the Public Health (Shell-Fish) Regulations, 1934 and 1948 (Public Health (Shell-Fish) (Amendment) Regulations, 1948 (S. I. 1948, No. 1120)).

GROUP III.—UNDER MILK AND DAIRIES ACTS, ETC.

305 **Milk and Dairies Order, 1926.**—This Order has been revoked and replaced by the Milk and Dairies Regulations, 1949 (S. I. 1949, No. 1588).

Art. 1, note (a).—The Order in force in Scotland is the Milk and Dairies (Scotland), Order, 1934 (S. R. & O. 1934, No. 675).

314 **Milk (Special Designations) Regulations, 1936 to 1946.**—These Regulations were further amended by the Milk (Special Designations) (Amendment) Regulations, 1948 (S. I. 1948, No. 1117). They have now been revoked and replaced by the Milk (Special Designation) (Pasteurised and Sterilised Milk) Regulations, 1949 (S. I. 1949, No. 1589, as amended by S. I. 1950, No. 409), and the Milk (Special Designation) (Raw Milk) Regulations, 1949 (S. I. 1949, No. 1590, as amended by S. I. 1950, No. 410). See also the Milk (Special Designations) (Specified Areas) Order, 1951 (S. I. 1951, No. 1358).

328 **Reg. 55G of the Defence (General) Regulations, 1939.**—This Regulation was revoked by the Milk (Special Designations) Act, 1949, s. 7 (now itself repealed). The corresponding provision is now contained in the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950, ss. 19 *et seq.*, pp. A82 *et seq.*, *post*.

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331 **Heat-Treated Milk (Prescribed Tests) Order, 1944.**—This Order lapsed on the revocation of Reg. 55G of the Defence (General) Regulations, 1939 (as to which see the Noter-up to p. 328 of the Main Volume, *supra*).

GROUP IV.—UNDER WEIGHTS AND MEASURES ACTS

334 **Sale of Food (Weights and Measures : Pre-Packed Articles) Regulations, 1927.**—These Regulations were revoked by the Sale of Food (Weights and Measures : Prepacked Articles) Regulations, 1950 (S. I. 1950, No. 1104), which re-enact Reg. 3 of the revoked Regulations. The other provisions of the revoked Regulations and the corresponding provisions of the Labelling of Food Order, 1946 (see the Notes to Reg. 3 on p. 335 of the Main Volume), are now replaced by the Pre-Packed Food (Weights and Measures: Marking) Order, 1950 (S. I. 1950, No. 1125, as amended by S. I. 1951, No. 996), made under the Defence (Sale of Food) Regulations, 1943 (p. 360 of the Main Volume).

GROUP V.—UNDER MERCHANDISE MARKS ACT, 1926

336–352 **Merchandise Marks (Imported Goods) Orders. Ending of Emergency Suspensions.**—The temporary abrogation, by directions issued under emergency powers, of certain Orders made under s. 2 of the Merchandise Marks Act, 1926 (see the Notes on pp. 336, 340, 346, 348, 349 and 352 of the Main Volume), has now come to an end ; but the operation of the Merchandise Marks (Imported Goods) No. 1 Order, 1932 (p. 345 of the Main Volume), and the Merchandise Marks (Imported Goods) No. 5 Order, 1934 (p. 348 of the Main Volume), is, at the date of going to press, for the time being suspended by temporary directions issued under s. 3 of the Act ; see, further, the Noter-up to pp. 21 and 22 of the Main Volume, p. A2, *ante*.

353 **Imported Meat (Marking) Order, 1941.**—The whole Order was revoked by the Imported Meat (Marking) (Revocation) Order, 1951 (S. I. 1951, No. 890).

Art. 3 of the Order had previously ceased to have effect by reason of the revocation of Reg. 9 of the Defence (Patents, Trade Marks, etc.) Regulations, 1941 (S. R. & O. 1941, No. 1780, as amended), under which that article had effect.

Reg. 9 of those Regulations (which replaced Reg. 60G of the Defence (General) Regulations, 1939 (S. R. & O. 1939, No. 927, as amended)), was revoked on 10th March, 1950, by the Defence Regulations (No. 4) Order, 1950 (S. I. 1950, No. 183).

After the lapse of Art. 3 of this Order, temporary provision corresponding to that article was made by the Merchandise Marks (Imported Goods) Exemption Direction (No. 5), 1950 (S. I. 1950, No. 885), made under s. 3 of the Merchandise Marks Act, 1926 (p. 22 of the Main Volume) ; but that Direction expired on 25th May, 1951, and has not been replaced.

GROUP VI.—MISCELLANEOUS PROVISIONS

357 **Reg. 60 CAA of the Defence (General) Regulations, 1939.**—By S. R. & O. 1945, No. 733, the following definition of " borax "

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357 was inserted in para. (12) of this regulation after the definition of " bacon " : —

" borax includes boric acid and other borates "

By S. I. 1950, Nos. 181 and 180, paras. (10) and (11) of this regulation were revoked as from 13th April, 1950, and 10th February, 1950 respectively ; and the operation of the Agricultural Produce (Grading and Marking) Act, 1928, ss. 3, 4 (pp. 67 and 68 of the Main Volume), was consequently restored.

By S. I. 1950, No. 1772, paras. 2 (c), 4 and 6 (c) of this regulation were revoked as from 10th December, 1950, together with the references to " bacon " in para. 6 (a) and (b) and the reference to para. (4) in para. (7) ; and the relaxation of restrictions on borax in bacon was therefore brought to an end.

360 **Defence (Sale of Food) Regulations, 1943 and 1945.**—These Regulations have been further continued in force until 10th December, 1950, by the Emergency Laws (Miscellaneous Provisions) Act, 1947 (26 Halsbury's Statutes (2nd Edn.), 280), until 10th December, 1951, by the Emergency Laws (Continuance) Order, 1950 (S. I. 1950, No. 1770), and until 10th December, 1952, by the Emergency Laws (Continuance) Order, 1951 (S. I. 1951, No. 2117).

For a list of further Orders under these Regulations, see p. A112, *post*.

Apart from the Orders made under these Regulations, food standards have in certain cases been expressly imposed by food control Orders made under the Defence (General Regulations), 1939 (S. R. & O. 1939, No. 927, as amended) (see *e.g.*, by the Soft Drinks Order, 1947 (S. R. & O. 1947, No. 2756, as amended)), or by the terms of manufacturing licences under such Orders (*e.g.*, under the Manufactured and Pre-Packed Foods (Control) Order, 1942 (S. R. & O. 1942, No. 1863, as amended (now revoked))), while certain codes of practice have been agreed between the Ministry of Food and the trade ; see generally the pamphlet " The Advertising, Labelling and Composition of Food," issued by the Ministry of Food in 1949.

362 **Reg. 2.**—The power to make Orders under this Regulation, so far only as relates to the imposition of requirements as to the labelling or marking wrappers or containers with weight, measure or number, was transferred on 27th June, 1950, from the Minister of Food to the Board of Trade by the Transfer of Functions (Sale of Food) Order, 1950 (S. I. 1950, No. 1044). In the application of para. (1) of this regulation to the functions so transferred, for the words " Minister of Food " and " him " there are to be substituted " Board of Trade " and " them " respectively.

For a list of further Orders made under this Regulation, see p. A112, *post*.

The power of the Minister of Health to make regulations under s. 8 of the Food and Drugs Act, 1938 (p. 109 of the Main Volume), was transferred to the Minister of Health and the Minister of Food, acting jointly, by the Transfer of Functions (Food and Drugs) Order, 1948 (S. I. 1948, No. 107).

363 **Reg. 4.**—It was held in *Macdonald & Sons, Ltd.*, v. *Sharpe*, [1947] 1 All E. R. 271, that the application of Part V of the Defence

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363 (General) Regulations, 1939, by this regulation caused conspiracy to contravene these regulations to be an offence against the General Regulations; such an offence could accordingly be prosecuted within twelve months of its commission, which is the time limit laid down by Reg. 93 (2) of the General Regulations.

Reg. 5.—The function of instituting proceedings under this regulation is now transferred to the Board of Trade in the case of infringements of Orders concerning indications of weight, measure or number; and, in relation to the function so transferred, for the words "Minister of Food" where they occur in para. (1), there are to be substituted the words "Board of Trade" (Transfer of Functions (Sale of Food) Order, 1950 (S. I. 1950, No. 1044)); see also the Noter-up to Reg. 2 of these Regulations, p. A35, *ante*.

369 **Food Standards (General Provisions) Order, 1944, Art. 9.**—The Food Standards (Self-Raising Flour) Order, 1944 (S. R. & O. 1944, No. 44), which is referred to in this Article, was revoked by the Food Standards (Self-Raising Flour) Order, 1946 (p. 369) of the Main Volume).

Since the publication of the Main Volume, the following new Food Standards Orders have been made :—

Food Standards (Table Jellies) Order, 1949 (S. I. 1949, No. 1656).
Food Standards (Curry Powder) Order, 1949 (S. I. 1949, No. 1816).
Food Standards (Tomato Ketchup) Order, 1949 (S. I. 1949, No. 1817).
Food Standards (Fish Cakes) Order, 1950 (S. I. 1950, No. 584).
Food Standards (Ice-Cream) Order, 1951 (S. I. 1951, No. 13).
Food Standards (Cream) Order, 1951 (S. I. 1951, No. 668).
Food Standards (Edible Gelatine) Order, 1951 (S. I. 1951, No. 1196, as amended by S. I. 1951, No. 2240).
Food Standards (Fish Paste) Order, 1951 (S. I. 1951, No. 1456, as amended by S. I. 1951, No. 2241).
Food Standards (Meat Paste) Order, 1951 (S. I. 1951, No. 1457, as amended by S. I. 1951, No. 2242).

By virtue of provisions in the first three Orders above-cited, the Orders up to the end of 1949 may be cited together as the Food Standards Orders, 1944 to 1949.

Amendments to Orders printed in the Main Volume are dealt with in the Noter-up to pp. 373–375 of the Main Volume, *infra*.

373 **Food Standards (Mustard) (No. 2) Order, 1944, Schedule.**—The Schedule to this Order was amended as from 16th April, 1947, by the Food Standards (Mustard) (No. 2) Amendment Order, 1947 (S. R. & O. 1947, No. 650), which substituted "0·28 per cent." for "0·35 per cent." It was again amended by the Food Standards (Mustard) (No. 2) Order, 1944 (Amendment No. 2) Order, 1948 (S. I. 1948, No. 1073), which restored "0·35 per cent." in place of "0·28 per cent." The last-mentioned Order came into force for

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373 different purposes on 1st August, 1948, 1st November, 1948, and 1st May, 1949.

Food Standards (Preserves) Order, 1944, Art. 1.—Para. (1) of Art. 1 of this Order now reads as follows :—

" (1) Pursuant to Regulation 2 of the Defence (Sale of Food) Regulations, 1943, the Minister of Food hereby prescribes that the standards for jam, marmalade, fruit curd (including fruit flavour curd) and mincemeat shall be as specified in the Schedule to this Order."

The above paragraph was substituted as from 16th October, 1949, by the Food Standards (Preserves) (Amendment) Order, 1949 (S. I. 1949, No. 1893), so as to give effect to the amendment made by that Order in Part I of the Schedule to this Order.

374 **Schedule, Part I.**—New paras. 2 and 2A have been substituted for the original para. 2 in this Part of the Schedule. The new paragraphs are as follows :—

" 2. The standard for fruit curd (including fruit flavour curd) shall be as follows, that is to say :—

(i) Each 100 parts of fruit curd shall contain not less than—

(a) 4 parts of fat,
(b) 0·33 part of citric acid,
(c) 0·125 part of oil of lemon (or 0·25 part of oil of orange),
(d) 1 part of dried whole egg
or $1\frac{1}{2}$ parts of sugar dried whole egg
or $3\frac{3}{4}$ parts of liquid or frozen whole egg
or $4\frac{1}{2}$ parts of shell egg ;

(ii) The percentage of soluble solids contained in fruit curd shall be not less than 65 per cent.

2A. The standard for mincemeat shall be as follows, that is to say :—

(i) Each 100 parts of mincemeat shall contain—

(a) not more than 0·5 part of acetic acid (80 per cent. or glacial),
(b) not less than 30 parts of added sugar,
(c) not less than 30 parts of dried fruit and peel,
(d) not less than 2·5 parts of suet or equivalent fat ;

(ii) The percentage of soluble solids contained in mincemeat shall be not less than 65 per cent."

The above paragraphs were substituted as from 16th October, 1949, by the Food Standards (Preserves) (Amendment) Order, 1949 (S. I. 1949, No. 1893). The effect of the substitution was to impose standards for fruit curd and mincemeat which had previously been enforced administratively under the Preserves Order, 1947 (S. R. & O. 1947, No. 1515 (now revoked)).

375 **Schedule, Part II.**—A new Part II of this Schedule has been substituted by the Food Standards (Preserves) (Amendment) Order, 1950 (S. I. 1950, No. 1056). The new Part II differs from the original Part II in that it raises the minimum fruit content of certain jams and fixes a standard for raspberry and

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375 loganberry jam. The amended entries and the new entry are as follows :—

First Column	Second Column
Description of Jam or Marmalade (Fresh Fruit Standard or Full Fruit Standard).	Percentage of Fruit or Vegetables
Blackcurrant and Blackcurrant Jelly	22
Loganberry	25
Raspberry and Raspberry Seedless or Jelly	25
Raspberry and Gooseberry ...	30 (15/15)
Raspberry and Loganberry ...	25 (15/10)
Raspberry and Redcurrant ...	30 (15/15)
Redcurrant Jelly	35
Strawberry	$37\frac{1}{2}$
Strawberry and Gooseberry ...	35 ($17\frac{1}{2}$/$17\frac{1}{2}$)

The above amendments came into force as regards sales by manufacturers on 25th September, 1950, by virtue of Art. 3 (1) (a) of the above-mentioned Order ; they were brought into force on 25th January, 1951, as regards sales by wholesale (as defined in the Order), and on 25th May, 1951, as regards sales by retail (as so defined) by virtue of Art. 3 (1) (b) of the Order and the Food Standards (Preserves) (Amendment) (Commencement) Order, 1950 (S. I. 1950, No. 1871).

376 **Preserves Order, 1944.**—This Order was revoked and replaced by the Preserves Order, 1947 (S. R. & O. 1947, No. 1515, as amended), which was in turn revoked by the Preserves (Revocation) Order, 1950 (S. I. 1950, No. 556), which decontrolled preserves.

380 **Food Standards (Salad Cream and Mayonnaise Order), 1945.**—This Order is printed in the Main Volume as amended by S. R. & O. 1946, No. 187, although this fact is not indicated in the headnote.

381 **Labelling of Food Order, 1946.**—This Order was amended by S. R. & O. 1947, Nos. 757, 2001, 2709, S. I. 1948, No. 2598, and S. I. 1949, Nos. 1161, 1536. It has now been revoked by the Labelling of Food Order, 1950 (S. I. 1950, No. 1061). It is replaced by the latter Order, as amended by S. I. 1952, No. 549, except in relation to certain provisions concerning weights and measures, which are now embodied in the Pre-Packed Food (Weights and Measures : Marking) Order, 1950 (S. I. 1950, No. 1125, as amended by S. I. 1951, No. 996).

400 **Sampling of Food Order, 1942.**—This Order was revoked without being replaced by the Sampling of Food (Revocation) Order, 1951 (S. I. 1951, No. 1458). Sampling is now carried out under Reg. 55AA (3) of the Defence (General) Regulations, 1939 (S. R. & O. 1939, No. 927, as amended), while the obtaining of samples of rationed food without surrendering coupons by certain authorised sampling officers is now provided for by Art. 29 (f) of the Food

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400 Rationing (General Provisions) Order, 1951 (S. I. 1951, No. 854, as amended by S. I. 1951, Nos. 1703 and 2213).

403 **Seizure of Food Order, 1942.**—This Order was revoked by the Seizure of Food Order, 1946, which has in turn been revoked and replaced by the Seizure of Food Order, 1948 (S. I. 1948, No. 724, as amended by S. I. 1948, No. 953).

GROUP VII.—MISCELLANEOUS EMERGENCY ORDERS

405 **Note.**—Certain Defence Regulations and Orders made thereunder (including the Defence (Sale of Food) Regulations, 1943, and the Labelling and Standards Orders made under those Regulations) were continued in force until 10th December, 1950, by the Emergency Laws (Miscellaneous Provisions) Act, 1947 (26 (Halsbury's Statutes (2nd Edn.), 280), until 10th December, 1951, by the Emergency Laws (Continuance) Order, 1950 (S. I. 1950, No. 1770), and until 10th December, 1952, by the Emergency Laws (Continuance) Order, 1951 (S. I. 1951, No. 2117). The Supplies and Services (Transitional Powers) Act, 1945 (26 Halsbury's Statutes (2nd Edn.), 244), has been extended in scope by the Supplies and Services (Extended Purposes) Act, 1947 (26 Halsbury's Statutes (2nd Edn.), 279), and the Supplies and Services (Defence Purposes) Act, 1951 (30 Halsbury's Statutes (2nd Edn.), 611), and was continued in force until 10th December, 1951, by the Supplies and Services (Continuance) Order, 1950 (S. I. 1950, No. 1769), and until 10th December, 1952, by the Supplies and Services (Continuance) Order, 1951 (S. I. 1951, No. 2116). Regulations and Orders having effect under that Act will therefore continue in force until that date, unless specifically revoked.

A definition in a Control and Maximum Prices Order was held not binding for the purposes of the Food and Drugs Act, 1938, in *Highnam* v. *Turier*, [1951] 2 All E. R. 850.

406 The text of the Defence (General) Regulations, 1939, as amended, is now printed in 1 Butterworth's Commercial Controls ; Orders and regulations relating to food and feeding stuffs are now contained in 3 Butterworth's Commercial Controls.

407 **Apples.**—Price control of apples was brought to an end by the Home-Grown Apples (Revocation) Order, 1950 (S. I. 1950, No. 1176), and the Imported Apples (Revocation) Order, 1950 (S. I. 1950, No. 1740).

Biscuits.—The Biscuits (Maximum Retail Prices) Order, 1943, has been revoked and replaced by the Biscuits (Prices) Order, 1951 (S. I. 1951, No. 607, as amended by S. I. 1952, No. 232). By the new Order, the definition of biscuits is amended to exclude petit fours or similar products. The Cake and Biscuit Alliance, Ltd. is now empowered without any further authority from the Minister to approve names for classified products.

408 **Bread.**—The Bread (Control and Maximum Prices) (No. 2) Order, 1943, as amended, was revoked by the Bread (Control and Maximum Prices) Order, 1947 (S. R. & O. 1947, No. 1867). The Order now in force is the Bread Order, 1951 (S. I. 1951, No. 258, as amended by S. I. 1951, Nos. 592 and 1077, and S. I. 1952, No. 232). Restrictions on quantities of fats and improvers used in

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408 bread making, on descriptions and shapes of loaves and on the sale of sliced, wrapped and banded bread (see Arts. 3, 4 and 6 of the revoked Order) are now removed. Restrictions on the use of imported flour are, however, imposed by Art. 2 of the current Order corresponding to those originally imposed by the Flour Order, 1947 (S. R. & O. 1947, No. 548) (now revoked). Provisions corresponding to those contained in Art. 5 of the revoked Order are contained in Art. 3 of the current Order, except that sale of loaves weighing less than two ounces is permitted, and that in the proviso relating to Northern Ireland (as amended) five ounces is substituted for seven ounces or three and a half ounces.

410 **Butter.**—The Butter (Control and Maximum Prices) Order, 1943, was revoked by the Butter (Control and Maximum Prices) Order, 1947 (S. R. & O. 1947, No. 551). The Order now in force is the Butter Order, 1951 (S. I. 1951, No. 801, as amended by S. I. 1951, No. 2231, and S. I. 1952, No. 271). The provisions of Arts. 7–9 of the current Order differ from those contained in the corresponding articles of the first-mentioned Order in that descriptions, indications, etc., other than " National Butter " are no longer forbidden.

412 **Canned Food.**—The Canning of Food and Feeding Stuffs (Control) Order, 1942, was amended by the Canning of Food and Feeding Stuffs (Amendment) Order, 1949 (S. I. 1949, No. 2133), which deleted Art. 7 of the principal Order together with the reference to Art. 7 in Art. 4 and also amended Arts. 12 and 14 of that Order.

413 **Cereal Fillers.**—The Cereal Fillers (Control and Maximum Prices) Order, 1944, is revoked and replaced by the Cereal Fillers Order, 1951 (S. I. 1951, No. 51, as amended by S. I. 1951, No. 1656). The definition of " cereal filler " now reads " any baked rusk, meal or crumbs of a description commonly used as a filler in the manufacture of articles of food containing meat or fish." Licences to manufacture cereal fillers are no longer required, but permits for the use of flour are still necessary and the prohibition of the use of soya flour, soya products and colouring matter remains in force.

Cheese.—The Cheese (Control and Maximum Prices) Order, 1943, was revoked by the Cheese (Control and Maximum Prices) Order, 1946 (S. R. & O. 1946, No. 2109). The Order now in force is the Cheese Order, 1950 (S. I. 1950, No. 1069, as amended by S. I. 1951, No. 728, and S. I. 1952, No. 280), which applies only to certain specified varieties of cheese. The definitions of " soft cheese " and " curd cheese " are omitted but the definition of " processed cheese " is retained.

414 **Chocolate and Sugar Confectionery.**—The Chocolate ; Sugar Confectionery and Cocoa Products (Control and Maximum Prices) Order, 1944, as amended, was revoked by S. I. 1949, No. 781. The Order now in force is the Chocolate, Sugar Confectionery and Cocoa Products Order, 1951 (S. I. 1951, No. 417, as amended by S. I. 1951, No. 2067, and S. I. 1952, No. 211). By the current Order " chocolate and chocolate confectionery " and " sugar confectionery " are defined as including medicated chocolate

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414 confectionery and medicated sugar confectionery respectively (other than products specified in the First Schedule to the Order, which corresponds to Part III (1) of the First Schedule to the earlier Order). " Sugar confectionery " does not include candy (or fairy) floss. Cocoa butter is no longer controlled. The appropriate Associations are empowered to classify products, change classifications, approve marks and names, etc., without further authority from the Minister.

See also Ministry of Food Circular MF 21/51, dated 6th November, 1951, which sets out an agreed Code of Practice on the use of the word " Butter " in the description of confectionery.

422 **Christmas Puddings.**—The Manufactured Prepacked Foods (Control) Order, 1942, was revoked by the Manufactured and Prepacked Foods (Revocation) Order, 1949 (S. I. 1949, No. 1498), and S. R. & O. 1943, No. 1318, as amended, is now spent.

Citrus Fruits.—The Citrus Fruit Order, 1945, was revoked by the Citrus Fruit (Amendment and Revocation) Order, 1950 (S. I. 1950, No. 379), which freed grapefruit from control as from 21st March, 1950, and oranges as from 7th May, 1950. Lemons had already been freed from control as from 10th October, 1948, by the Citrus Fruit Order, 1945 (Amendment No. 5) Order, 1948 (S. I. 1948, No. 2229).

Coffee Essence and Coffee Mixture.—The Coffee Essence (Control) Order, 1942, was revoked by the Coffee Essence (Revocation) Order, 1949 (S. I. 1949, No. 1282). The Chicory (Control) Order, 1942, was revoked by the Chicory (Control) Order, 1942 (Revocation) Order, 1948 (S. I. 1948, No. 2028). The Coffee (Maximum Retail Prices) Order, 1946, has been revoked and replaced by the Coffee Order, 1951 (S. I. 1951, No. 860), which retains the provision that coffee mixtures shall contain at least 51 per cent. of full coffee.

Condensed Milk.—The Condensed Milk (Control and Maximum Prices) Order, 1943, as amended, has been revoked and replaced by the Condensed Milk Order, 1951 (S. I. 1951, No. 1009, as amended by S. I. 1952, No. 365). The current Order contains a definition of " condensed milk " identical with that in the revoked Order. A new definition " special full cream " replaces the definition " special full cream sweetened " contained in the revoked Order and the definition " special full cream unsweetened " (which was contained in the Condensed Milk (Canned) (Maximum Prices) Order, 1940 (S. R. & O. 1940, No. 1622, as amended), but not, as indicated on p. 423 of the Main Volume, in the Order of 1943).

423 **Cream.**—The Order now in force is the Cream Order, 1951 (S. I. 1951, No. 1160), which reimposed as from 1st July, 1951, prohibitions on the manufacture, sale, etc., of cream except under licence.

Food standards in relation to cream are prescribed by the Food Standards (Cream) Order, 1951 (S. I. 1951, No. 668).

Dripping.—The Animal Oils and Fats (Control and Maximum Prices) Order, 1943, was revoked by the Oils and Fats Order, 1949 (S. I. 1949, No. 894), which in turn was revoked by the Oils and Fats (No. 2) Order, 1949 (S. I. 1949, No. 2291, as amended by

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423 S. I. 1951, Nos. 21, 125, 783 and 1251). This Order has been revoked by the Oils and Fats Order, 1952 (S. I. 1952, No. 327), which contains a like definition.

425 **Drugs.**—S. R. & O. 1944, No. 795, as amended by S. R. & O. 1946, No. 490, was revoked by the Scarce Substances (Revocation) Order, 1947 (S. I. 1947, No. 368).

Eggs.—The Eggs (Control and Prices) (Great Britain) Order, 1946, was revoked by the Eggs (Great Britain) Order, 1949 (S. I. 1949, No. 612, as amended), which was in turn revoked by the Eggs (Great Britain) Order, 1950 (S. I. 1950, No. 1661, as amended). This Order has been revoked and replaced by the Eggs (Great Britain) Order, 1951 (S. I. 1951, No. 2143, as amended by S. I. 1952, Nos. 261 and 339). The current Order (as amended) no longer applies to ducks' eggs. It contains provisions in general corresponding to the provisions printed on pp. 425–428 of the Main Volume.

428 **Egg products and Dried Egg.**—The Egg Products (Control and Maximum Prices) Order, 1943, has been revoked and replaced by the Egg Products (Control and Maximum Prices) Order, 1946 (S. R. & O. 1946, No. 1729, as amended by S. R. & O. 1946, No. 2214, S. R. & O. 1947, No. 327, S. I. 1949, Nos. 1682 and 2041, S. I. 1950, No. 1138, and S. I. 1951, No. 1781). The Dried Egg (Control of Use) Order, 1945, was revoked by the Dried Egg (Control of Use) (Revocation) Order, 1951 (S. I. 1951, No. 928).

Fish.—The Fish (Revocation of Controls) Order, 1950 (S. I. 1950, No. 559), freed all sales of fish (other than canned fish) from price control and controls on distribution. Prices of imported canned fish are controlled by the Imported Canned Fish (Maximum Prices) Order, 1950 (S. I. 1950, No. 584, as amended by S. I. 1950, No. 1341, S. I. 1951, Nos. 345 and 1501, and S. I. 1952, No. 328).

430 **Fish Cakes.**—The Fish Cakes (Maximum Prices) Order, 1943, was revoked by the Fish (Revocation of Controls) Order, 1950 (S. I. 1950, No. 559). Standards for fish cakes are now prescribed by the Food Standards (Fish Cakes) Order, 1950 (S. I. 1950, No. 589), which preserves the requirement that fish cakes contain not less than 35 per cent. of fish.

Flavouring Essences.—The Flavouring Essences (Current Prices) Order, 1943, was revoked by the Flavouring Essences (Current Prices) (Revocation) Order, 1947 (S. .R. & O. 1947, No. 2023), which ended price control of essences.

431 **Flour.**—The Flour Order, 1945, was revoked by the Flour Order, 1947 (S. R. & O. 1947, No. 548, as amended), which has in turn been revoked and replaced by the Flour Order, 1951 (S. I. 1951, No. 1042, as amended by S. I. 1951, No. 2198, and S. I. 1952, No. 209). In general, the current Order contains provisions corresponding to those set out on pp. 431–435 of the Main Volume. The definition of " flour " is amended so as to exclude coloured or flavoured semolina and the reference in the definition to the Manufactured and Pre-Packed Foods (Control) Order, 1942 (now revoked), is omitted. The extraction rate of " National Flour " is reduced from 85 per cent. to 81 per cent. and the definition of " W " flour is amended accordingly. The restriction on the use of

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431 imported flour contained in Art. 20 (1) of the first-mentioned Order is not reproduced in the current Order (but a corresponding provision is now embodied in Art. 2 of the Bread Order, 1951 (S. I. 1951, No. 258, as amended).

436 **Flour Confectionery.**—The Flour Confectionery (Control and Maximum Prices) Order, 1946, was revoked and replaced by the Flour Confectionery Order, 1951 (S. I. 1951, No. 1078, as amended by S. I. 1951, No. 1755). The 1951 Order has been revoked by the Flour Confectionery (Revocation) Order, 1952 (S. I. 1952, No. 208).

438 **Food Substitutes.**—The Food Substitutes (Control) Order, 1941, was revoked by the Food Substitutes (Revocation) Order, 1950 (S. I. 1950, No. 929).

439 **Fruits and Vegetables, Canned or Bottled.**—The Orders now in force are the Home Canned Fruit and Vegetables Order, 1950 (S. I. 1950, No. 675), and the Imported Canned Fruit Order, 1950 (S. I. 1950, No. 676, as amended by S. I. 1950, No. 2128, S. I. 1951, No. 1400, and S. I. 1952, No. 329). Under the first-mentioned Order, the provisions of former Orders are varied in a number of respects. Special licences to can certain fruits and vegetables are no longer required. Compliance is still required with regulations as to size of cans, weight of fruit, etc. The restrictions on bottling and freezing fruit and vegetables are no longer included.

440 **Honey.**—The Preserves Order, 1944, was revoked and replaced by the Preserves Order, 1947 (S. R. & O. 1947, No. 1515, as amended), which was in turn revoked by the Preserves (Revocation) Order, 1950 (S. I. 1950, No. 556), which ended the control of preserves.

Horseflesh and Slaughtering of Livestock.—The Horseflesh (Control and Maximum Prices) Order, 1941, was revoked by the Meat Feeding Stuffs, Venison, Goat Meat and Horseflesh (Revocation) Order, 1950 (S. I. 1950, No. 281), which ended price and other control over horseflesh.

442 **The Livestock (Restriction on Slaughtering) (No. 2) Order, 1940.**—This Order has been revoked and replaced by the Livestock (Restriction on Slaughtering) Order, 1947 (S. R. & O. 1947, No. 1079). The period within which the owner of livestock slaughtered on account of accidental injury or illness is required to notify the District Chairman of Auctioneers is reduced to twenty-four hours, but, as an alternative, the owner may deliver the carcase within twenty-four hours to the nearest Government Slaughterhouse or other designated place. The prohibition of purchase except from the Minister or his agent is extended to imported meat. The requirement that meat not fit for human consumption be stained is expressly applied to meat derived from horses or livestock slaughtered in a knacker's yard or whose carcases have been delivered to a knacker's yard.

444 **Ice-Cream.**—The use of cream in ice-cream (except under licence) is at present prohibited by the Cream Order, 1951 (S. I. 1951, No. 1160). The Use of Milk (Restrictions) Order, 1945, is for the time being suspended generally as regards milk powder and condensed milk, by the Use of Milk (Suspension of Restrictions) Order, 1951 (S. I. 1951, No. 1159). The regulations now governing the treatment of ice-cream by heat are the Ice-cream (Heat

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444 Treatment, etc.) Regulations, 1947 (S. R. & O. 1947, No. 612, as amended by S. I. 1948, No. 819, and S. I. 1951, No. 67). Standards for ice-cream are contained in the Food Standards (Ice-Cream) Order, 1951 (S. I. 1951, No. 13).

445 **Manufactured and Pre-packed Foods.**—The Manufactured and Pre-packed Foods (Control) Order, 1942, was revoked by the Manufactured and Pre-packed Foods (Revocation) Order, 1949 (S. I. 1949, No. 149).

449 **Meat.**—The Order now in force is the Meat (Prices) (Great Britain) (No. 2) Order, 1951 (S. I. 1951, No. 1313).

450 **Meat Products.**—The Order now in force is the Meat Products Order, 1952 (S. I. 1952, No. 507). The requirements contained in, and application of, the current Order differ in a number of respects from those set out at pp. 450–457 of the Main Volume. In particular, soups, brawn, liver sausage and haggis are no longer dealt with in the Order. The minimum percentage of meat in breakfast sausage, canned galantine and canned special meat roll is increased. In certain cases the increase is to take effect after September 14, 1952. Standards of meat and fish content for pastes are no longer included in the current Order (as amended) but are laid down by the Food Standards (Meat Paste) Order, 1951 (S. I. 1951, No. 1457, as amended by S. I. 1951, No. 2242), and the Food Standards (Fish Paste) Order, 1951 (S. I. 1951, No. 1456, as amended by S. I. 1951, No. 2241).

458 **Milk.**—The Milk (Control and Maximum Prices) (Great Britain) Order, 1945, has been ultimately replaced by the Milk (Control and Maximum Prices) (Great Britain) Order, 1951 (S. I. 1951, No.1157, as amended by S. I. 1951, Nos. 1490, 2065 and 2311). The current Order contains a corresponding definition of " homogenised milk " (except that, when sold in a container, such milk is required, under the definition now in force, to be labelled " Homogenised Milk "). " Sterilised milk " and " tuberculin tested milk " are defined in the current Order by reference to the Milk (Special Designation) (Pasteurised and Sterilised Milk) Regulations, 1949 (S. I. 1949, No. 1589, as amended by S. I. 1950, No. 409), and the Milk (Special Designation) (Raw Milk) Regulations, 1949 (S. I. 1949, No. 1590, as amended by S. I. 1950, No. 410). The Order also contains definitions of " Channel Islands milk," " Kosher milk," " Kedassia milk," " milk," " ordinary milk," " South Devon milk," " Tuberculin Tested (Farm Bottled) milk." The definitions in the Order do not apply for the purpose of proceedings under s. 3 of the Food and Drugs Act, 1938 (*Highnam* v. *Turiel*, [1951] 2 All E. R. 850).

The Use of Milk (Restrictions) Order, 1945, is for the time being suspended as regards milk powder and condensed milk by the Milk (Suspension of Restrictions) Order, 1951 (S. I. 1951, No. 1159).

459 **Nuts.**—Control of nuts was brought to an end by the Nut Kernels (Revocation) Order, 1950 (S. I. 1950, No. 614).

Pears.—Control of pears was ended by the Pears (Revocation) Order, 1949 (S. I. 1949, No. 1555).

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460 **Pepper.**—Pepper was freed from control by the Pepper Revocation) Order, 1947 (S. R. & O. 1947, No. 50).

Pickles and Sauces.—Pickles and sauces were ultimately freed from control by the Pickles and Sauces (Revocation) Order, 1949 (S. I. 1949, No. 1396). Standards for tomato ketchup are now fixed by the Food Standards (Tomato Ketchup) Order, 1949 (S. I. 1949, No. 1817).

Plums.—Control of plums was ended by the Plums (Revocation) Order, 1947 (S. R. & O. 1947, No. 1141) and the Imported Deciduous Fruit (Revocation) Order, 1950 (S. I. 1950, No. 1141).

461 **Rice.**—The Rice (Control and Maximum Prices) Order, 1943, as amended, has been revoked and replaced by the Rice Order, 1950 (S. I. 1950, No. 1617). The restrictions on the manufacture, buying, sale and use of rice have, in general, been lifted, but a restriction remains on buying and selling broken rice and maximum prices are imposed.

Pulse.—Control was removed by the Pulse (Revocation) Order, 1950 (S. I. 1950, No. 995).

Saccharin.—The Saccharin (Control and Maximum Prices) Order, 1944, has been revoked and replaced by the Saccharin Order, 1949 (S. I. 1949, No. 945). The current Order reproduces the provisions of Art. 2 of the revoked Order, except that the requirement that sales of tablets should be in 100 size packets is discontinued. The provisions of Arts. 3–6 of the revoked Order (which included provisions imposing price control) are not reproduced.

464 **Soft Drinks.**—The Soft Drinks Order, 1946, as amended, has been revoked and replaced by the Soft Drinks Order, 1947 (S. R. & O. 1947, No. 2756, as amended by S. I. 1948, No. 1291, S. I. 1949, No. 1378, S. I. 1950, No. 596, and S. I. 1951, No. 137). The definition of " soft drink " has been altered and, in particular, applies only to liquid soft drinks. The current Order provides for the licensing of manufacturers and packers, and contains much modified provisions as to control of ingredients. It maintains a limited degree of price control, but imposes no requirements or prohibitions as to descriptions, labelling, marking or size of containers or as to transport.

473 **Soya Flour.**—The Soya Flour (Control and Maximum Prices) Order, 1946, as amended, was revoked by the Soya Flour (Revocation) Order, 1950 (S. I. 1950, No. 1766), which removed control from soya flour.

Notes.—The Cereal Fillers (Control and Maximum Prices) Order, 1944, has been replaced by the Cereal Fillers Order, 1951 (S. I. 1951, No. 51, as amended by S. I. 1951, No. 1656), which continues the prohibition on the use of soya flour. Restrictions on the use of soya products in sausages are now contained in the Meat Products (Control and Maximum Prices) Order, 1948 (S. I. 1948, No. 1509, as amended), Art. 4 (1).

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474 **Starch Food Powders.**—The Starch Food Powders (Control) Order, 1944, was revoked by the Starch Food Powders (Revocation) Order, 1950 (S. I. 1950, No. 1907).

475 **Syrup and Treacle.**—The Syrup and Treacle (Maximum Prices) Order, 1941, has been revoked and replaced by the Syrup and Treacle Order, 1950 (S. I. 1950, No. 872). The latter Order contains the following definitions :—

> "' Syrup ' means the clear viscous solution of sugars derived from cane or beet, or both, and may, or may not contain added glucose. ' Treacle ' means the dark-coloured viscous product obtained by processing by-products of sugar manufacture or refining."

Table Jellies.—The Table Jellies (Maximum Prices) Order, 1946, as amended, was revoked by the Table Jellies (Revocation) Order, 1951 (S. I. 1951, No. 1623). Standards of composition for table jellies are now prescribed by the Food Standards (Table Jellies) Order, 1949 (S. I. 1949, No. 1656) ; and table jellies are in consequence exempted from Art. 2 (3) of the Labelling of Food Order, 1950 (S. I. 1950, No. 1061, as amended), by the First Schedule to that Order ; see Tables A and C of that Schedule. Under the last-mentioned Order the Minister of Food no longer has power to grant licences containing exemptions from the provisions of the Order.

476 **Tomatoes.**—The control of tomatoes was brought to an end by the Tomatoes (Revocation) Order, 1948 (S. I. 1948, No. 1510).

APPENDIX I

493 Part II of Ministry of Health Circular 2640 was superseded by Ministry of Food Circular 3/48, dated 7th October, 1948.

APPENDIX II

515 **Cream.**—Standards for cream are now laid down by the Food Standards (Cream) Order, 1951 (S. I. 1951, No. 668). See also the Noter-up to p. 423 of the Main Volume, p. A41, *ante*.

Drugs.—Power to publish new editions of the British Pharmacopoeia is now conferred by the Medical Act, 1950, s. 23 (29 Halsbury's Statutes (2nd Edn.), 576). S. R. & O. 1944, No. 795 as amended by S. R. & O. 1946, No. 490 (p. 425 of the Main Volume), was revoked by the Scarce Substances (Revocation) Order, 1947 (S. I. 1947, No. 368). The National War Formulary has been succeeded by the National Formulary.

516 **Fish.**—The operation of s. 5 of the Sea-Fishing Industry Act, 1933, was terminated, and the Sea-fish Commission was abolished, by the Sea Fish Industry Act, 1938, s. 40. Power to regulate the sale of white fish is now conferred upon the White Fish Authority by the Sea Fish Industry Act, 1951, s. 5 (30 Halsbury's Statutes (2nd Edn.), 94).

517 **Gelatine.**—A standard for edible gelatine is now laid down by the Food Standards (Edible Gelatine) Order, 1951 (S. I. 1951, No. 1196, as amended by S. I. 1951, No. 2240).

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517 **Golden Syrup.**—The definition of " syrup " now in force for purposes of price control is set out in the Noter-up to p. 475 of the Main Volume, p. A46, *ante*.

Ice-Cream.—A standard for ice-cream is now laid down by the Food Standards (Ice-Cream) Order, 1951 (S. I. 1951, No. 13). See also the Noter-up to p. 444 of the Main Volume, p. A43, *ante*.

Margarine.—As from 20th May, 1951, only " special " margarine is to be distributed.

Meat-Food Substances.—See the Noter-up to p. 450 of the Main Volume, p. A44, *ante*.

518 **Milk.**—A reference to the Sale of Milk Regulations, 1939 (p. 258 of the Main Volume), should be substituted for the reference to the Sale of Milk Regulations, 1901.

520 **Milk.**—Art. 31 of the Milk and Dairies Order, 1926, is replaced, with modifications, by Reg. 29 of the Milk and Dairies Regulations, 1949 (S. I. 1949, No. 1588).

522 **Vinegar.**—In *Kat* v. *Diment*, [1951] 1 K. B. 34; [1950] 2 All E. R. 657, it was held that the application of the term " non-brewed vinegar " to a synthetic product composed of acetic acid, caramel and water was an offence under the Merchandise Marks Act, 1887, s. 2 (1) (d) (p. 11 of the Main Volume).

PART II
ADDITIONAL ACTS

PREVENTION OF DAMAGE BY PESTS ACT, 1949.

[12, 13 & 14 Geo. 6, c. 55.]

ARRANGEMENT OF SECTIONS

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Rats and Mice

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An Act to re-enact with modifications the Rats and Mice (Destruction) Act, 1919; to make permanent provision for preventing loss of food by infestation; and for purposes connected therewith.

[30th July 1949.]

Note.—The portions of this Act printed below make permanent provision for preventing the loss of food by vermin. They do not, in general, apply to Northern Ireland; see s. 29, p. A61, *post*. They supersede the corresponding emergency provisions contained in the Infestation Order, 1943 (S. R. & O. 1943, No. 680, as amended), which has been revoked (except in its application to Northern Ireland) by S. I. 1950, No. 417, and S. I. 1951, No. 1487.

Part I

Rats and Mice

1. Local authorities for the purposes of Part I.—(1) The local authorities for the purposes of this Part of this Act in England and Wales shall be the Common Council of the City of London and the councils of metropolitan boroughs, county boroughs and county districts (*a*):

Provided that—

(a) the local authority for any port health district, whether constituted before or after the commencement of this Act, shall be the port health authority (*b*); and

(b) in relation to sewers vested in the council (*c*) of any county, the functions of the local authority under this Part of this Act shall be exercisable by that council and not by any other authority.

(2) The local authorities for the purposes of this Part of this Act in Scotland shall be the local authorities within the meaning of the Public Health (Scotland) Act, 1945, and port local authorities within the meaning of section one hundred and seventy-two of the Public Health (Scotland) Act, 1897.

(3) Section six of the Public Health Act, 1936 (*d*) (which provides for the constitution of united districts for any of the purposes of that Act) shall have effect as if the purposes of this Part of this Act were purposes of that Act.

Notes

The definition of "local authority" contained in this section is printed because it applies in relation to the power of the Minister to delegate his functions as to infestation of food under Part II of this Act; see s. 18 (1), p. A55, *post*.

(*a*) **County districts.**—*I.e.*, non-county boroughs, urban districts and rural districts; see the Local Government Act, 1933, ss. 1, 305 (14 Halsbury's Statutes (2nd Edn.), 361, 510).

(*b*) **Port health authority.**—Provision concerning the constitution of port health authorities is made by the Public Health Act, 1936, ss. 2–5 (19 Halsbury's Statutes (2nd Edn.), 314–317), and, in relation to the port of London, by the Public Health (London) Act, 1936, s. 5 (15 Halsbury's Statutes (2nd Edn.), 895).

(*c*) **Sewers vested in the council.**—Provision concerning the vesting of sewers in local authorities is made by the Public Health Act, 1936, s. 20 (1) (c) (19 Halsbury's Statutes (2nd Edn.), 329).

(*d*) **Public Health Act, 1936, s. 6.**—19 Halsbury's Statutes (2nd Edn.), 317.

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Part II

Infestation of Food

13. Obligation of certain undertakers to give notice of occurrence of infestation.—(1) Subject to the provisions of this section, every person whose business consists of or includes the manufacture (*a*), storage, transport or sale of food (*a*), shall give to the Minister (*b*) forthwith notice (*c*) in writing if it comes to his knowledge that any infestation (*a*) is present—

(a) in any premises or vehicle, or any equipment belonging to any premises or vehicle, used or likely to be used in the course of that business for the manufacture, storage, transport or sale of food ;

(b) in any food manufactured, stored, transported or sold in the course of that business, or in any other goods for the time being in his possession which are in contact or likely to come into contact with food so manufactured, stored, transported or sold.

(2) Subject to the provisions of this section, every person whose business consists of or includes the manufacture, sale, repair or cleaning of containers (*a*) shall forthwith give notice in writing to the Minister if it comes to his knowledge that any infestation is present in any container for the time being in his possession which is to be used for the reception of food in the course of any such business as is mentioned in subsection (1) of this section.

(3) The Minister may after consultation with such associations or bodies (if any) as appear to him to be representative of persons affected, make regulations (*d*)—

(a) for relaxing or excluding the requirements of this section in such cases and subject to such conditions (if any) as may be prescribed by or under the regulations ;

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(b) for prohibiting or restricting the delivery in the course of business of any food or other goods in respect of which notice is or is required to be given to the Minister under this section.

Notes

Powers of entry.—For powers of entry on land, see s. 22 (2), p. A58, *post*.

Application to shipping and aircraft.—For power to apply this Act to shipping and aircraft, see s. 23, p. A59, *post*.

(*a*) **Definitions.**—For " container," " food," " infestation," " manufacture," see s. 28 (1), p. A61, *post*.

(*b*) **Minister.**—*I.e.*, the Minister of Agriculture and Fisheries, or, in relation to Scotland, the Secretary of State ; see s. 28 (1), p. A61 *post*. The Minister may delegate his functions (other than under sub-s. (3) of this section) ; see s. 18, p. A55, *post*.

(*c*) **Notice.**—Under s. 18 (2), p. A55, *post*, notice may, in certain cases, be required to be given to a local authority instead of to the Minister.

(*d*) **Regulations.**—See the Prevention of Damage by Pests (Infestation of Food) Regulations, 1950 (S. I. 1950, No. 416). For provisions governing the making of regulations, see s. 21, p. A57, *post*.

14. Power of Minister to give directions to certain undertakers for preventing or mitigating infestation.—(1) Without prejudice to the provisions of any regulations made under the last foregoing section, the Minister (*a*) may, if he is satisfied, whether in consequence of a notice under the last foregoing section or otherwise, that it is necessary to do so for the purpose of preventing or mitigating damage to food (*b*), give such directions (*c*) under the following provisions of this section as he thinks expedient.

(2) Directions may be given under this section to any person whose business consists of or includes the manufacture (*b*), storage, transport or sale of food—

(a) prohibiting or restricting the use for the manufacture, storage, transport or sale of food in the course of that business of any premises or vehicle, or any equipment belonging to any premises or vehicle, which is or is likely to become infested (*b*) ;

(b) prohibiting or restricting the acceptance, delivery, retention or removal in the course of that business of any infested food or of any other infested goods which are likely to come into contact with food manufactured, stored, transported or sold as aforesaid ;

(c) requiring the carrying out, within such time as may be specified in the directions, of any structural works, or the application of any form of treatment, being works or treatment appearing to the Minister to be necessary for preventing or

remedying infestation in any such premises, vehicle, equipment, food or other goods as aforesaid.

(3) Directions may be given under this section to any person whose business consists of or includes the manufacture, sale, repair or cleaning of containers (*b*), requiring the treatment of any infested container, or of any infested premises in which the business is carried on, in such manner as may be specified in the directions, and prohibiting the removal of any such container until it has been so treated.

(4) Where the Minister is satisfied that any food or container in the possession of a person carrying on any such business as is mentioned in subsection (2) or subsection (3) of this section is so infested that the infestation (*b*) cannot reasonably be remedied by any form of treatment, he may give directions under this section to that person requiring him to destroy it within such time and by such means as may be specified in the directions.

Notes

(*a*) **Minister.**—*I.e.*, the Minister of Agriculture and Fisheries, or, in relation to Scotland, the Secretary of State ; see s. 28 (1), p. A61, *post*. The Minister may delegate his functions ; see s. 18, p. A55, *post*.

(*b*) **Definitions.**—For " container," " food," " infestation," " infested " and " manufacture," see s. 28 (1), p. A61, *post*.

(*c*) **Directions.**—Directions given by virtue of this section do not take the form of statutory instruments ; *cf.* s. 21 (1), p. A57, *post*. The right of appeal and the time within which it must be exercised must be specified in the directions if they require the carrying out of any structural works or the destruction of any food container ; see s. 15 (3), p. A54, *post*.

15. Appeal against directions under s. 14.—(1) Where directions are given under the last foregoing section requiring the carrying out of any structural works, or the destruction of any food or container (*a*), any person who is aggrieved (*b*) thereby may—

(a) in the case of directions requiring the carrying out of any structural works, within twenty-one days (*c*) from the service of the directions ;

(b) in the case of directions requiring the destruction of any food or container, within seven days (*c*) from the service of the directions,

appeal to a court of summary jurisdiction for the petty sessional division or place in which the works are required to be carried out or, as the case may be, in which the food or container is for the time being situated.

(2) Upon any such appeal the court, if satisfied that the directions are for any reason invalid, or that any requirement thereof is excessive or unreasonable, may quash or amend the directions, as the case may be, but in any other case shall dismiss the appeal :

Provided that if and so far as the appeal is based on the ground of some informality, defect or error in or in connection with the directions, the court shall dismiss the appeal if satisfied that the informality, defect or error was not a material one.

(3) Any directions given under the last foregoing section requiring the carrying out of any structural works, or the destruction of any food or container, shall include a statement of the right of appeal under this section, and of the time within which such an appeal may be brought.

(4) An appeal shall lie to quarter sessions (*d*) from the decision of a court of summary jurisdiction under this section in respect of directions requiring the carrying out of any structural works.

(5) In the application of this section to Scotland—

(a) in subsection (1), for the words from " to a court " to the end of the subsection there shall be substituted the words " by way of an application to the sheriff in whose jurisdiction the works are required to be carried out or, as the case may be, in which the food or container is for the time being " ;

(b) subsection (4) shall not apply.

Notes

(*a*) **Food or container.**—For meaning of " food " and " container," see s. 28 (1), p. A61, *post*.

(*b*) **Person aggrieved.**—In general, a person aggrieved is a man who has suffered a legal grievance, a man against whom a decision has been pronounced which has wrongfully deprived him of something, or wrongfully refused him something, or wrongfully affected his title to something (*Re Sidebotham, Ex parte Sidebotham* (1880), 14 Ch. D. 458, C. A., at p. 465 ; 4 Digest 225, *2114*) ; and see note (*b*), p. 626, Lumley's Public Health (11th Edn.), vol. I, and cases cited in 4 Words and Phrases 230 *et seq* and *R.* v. *London Quarter Sessions, Ex parte Westminster Corporation*, [1951] 2 K. B. 508 ; [1951] 1 All E. R. 1032.

(*c*) **Within twenty-one days : within seven days.**—*I.e.*, exclusive of the day when the directions are served ; see *Stewart* v. *Chapman*, [1951] 2 K. B. 792 ; [1951] 2 All E. R. 613.

(*d*) **Appeal to quarter sessions.**—For procedure on such an appeal, see the Summary Jurisdiction Act, 1879, s. 31 (14 Halsbury's Statutes (2nd Edn.), 869).

16. Powers of Minister in case of failure to comply with directions.—(1) Subject to the provisions of the last foregoing section with respect to appeals, if any person to whom

directions are given by the Minister (*a*) under section fourteen of this Act fails to comply with any requirement of the directions within the period prescribed thereby, then, without prejudice to any proceedings which may be taken against him in respect of an offence under this Part of this Act, the Minister may by order authorise any person named in the order to take, on behalf of the person in default, such steps as the Minister considers necessary for securing compliance with that requirement.

(2) The amount of any expenses reasonably incurred by a person authorised as aforesaid in carrying out works under this section may be recovered by the Minister from the person in default.

(3) In proceedings for the recovery of any expenses under this section, it shall not be open to the defendant (*b*) to raise by way of defence any question which he could have raised on an appeal under the last foregoing section.

Notes

(*a*) **Minister.**—*I.e.*, the Minister of Agriculture and Fisheries, or, in relation to Scotland, the Secretary of State ; see s. 28 (1), p. A61, *post*. The Minister may delegate his functions ; see s. 18, *infra*.

(*b*) **Defendant.**—In relation to Scotland, " defendant " means " defender," see s. 28 (1), p. A61, *post*.

17. Offences against Part II.—Subject to the provisions of this Part of this Act with respect to appeals (*a*), any person who contravenes or fails to comply with this Part of this Act or any directions (*b*) given thereunder shall be guilty of an offence (*c*) and liable on summary conviction to a fine not exceeding in the case of a first offence one hundred pounds, and in the case of a second or any subsequent offence two hundred pounds.

Notes

(*a*) **Provisions with respect to appeals.**—See s. 15, p. A53, *ante*.

(*b*) **Directions.**—See s. 14, p. A52, *ante*.

(*c*) **Guilty of an offence.**—For a limitation on the initiation of legal proceedings, see s. 26 (1), p. A62, *post*.

18. Power of Minister to delegate to local authorities.—(1) The Minister (*a*) may with the consent of any local authority for the purposes of Part I of this Act (*b*) by order (*c*) delegate to that authority any of his functions under this Part of this Act (except subsection (3) of section thirteen of this Act), subject to such restrictions and conditions as may be specified in the order.

(2) An order made under this section delegating functions to a local authority may direct that in such cases as may be prescribed by the order any notice of infestation required to be given

under section thirteen of this Act shall be given to the local authority instead of being given to the Minister.

(3) Any order under this section shall provide for the repayment by the Minister to the local authority of any expenses incurred by them in the performance of functions delegated by the order so far as those expenses are not otherwise recoverable (*d*) under this Act.

(4) An order under this section may be revoked or varied by a subsequent order.

Notes

(*a*) **Minister.**—*I.e.*, the Minister of Agriculture and Fisheries, or, in relation to Scotland, the Secretary of State ; see s. 28 (1), p. A61, *post*.

(*b*) **Local authority for the purposes of Part I of this Act.**—See s. 1, p. A50, *ante*.

(*c*) **By order.**—At the date of going to press, no orders have been made under this section. Such orders are to take the form of statutory instruments ; see s. 21 (1), p. A57, *post*.

(*d*) **Otherwise recoverable.**—*I.e.*, under s. 16 (2), p. A55 *ante*.

Part III

Supplemental

19. Control of methods of destruction of pests, &c.—(1) The Minister (*a*) may make regulations (*b*) for controlling the methods for keeping down or destroying rats, mice, insects or mites which may be used by persons carrying on business in the provision of services for that purpose ; and such regulations may in particular—

(a) approve different methods for use in different circumstances ;

(b) prohibit the use by persons to whom the regulations apply of any method other than a method so approved.

(2) Any person who fails to comply with regulations made under this section shall be guilty of an offence (*c*) and liable on summary conviction to a fine not exceeding in the case of a first offence one hundred pounds, and in the case of a second or any subsequent offence two hundred pounds.

Notes

(*a*) **Minister.**—*I.e.*, the Minister of Agriculture and Fisheries, or, in relation to Scotland, the Secretary of State ; see s. 28 (1), p. A61, *post*.

(*b*) **Regulations.**—At the date of going to press, no regulations have been made under this section. For provisions governing the making of regulations, see s. 21, p. A57, *post*.

(*c*) **Guilty of an offence.**—For a limitation on the initiation of legal proceedings, see s. 26 (1), p. A60, *post*.

20. Amendment of Agriculture Act, 1947.—(1) No notice served after the commencement of this Act under section ninety-eight of the Agriculture Act, 1947 (*a*) (which enables the Minister (*b*) to require the destruction of animals to which that section applies) shall require any person to take any steps which he could have been required to take by a notice served under section four of this Act (*c*); but nothing in this subsection shall affect the provisions of section one hundred and one of the said Act of 1947 (*a*) as to the rendering by the Minister of assistance in the destruction of animals to which the said section ninety-eight applies and the recovery by the Minister of any charge made in respect of any such assistance.

(2) The purposes for which the Minister may exercise his powers under the said section one hundred and one shall include the rendering of assistance in the prevention or treatment of any infestation (*d*).

(3) In the application of this section to Scotland, for references to sections ninety-eight and one hundred and one of the Agriculture Act, 1947, there shall respectively be substituted references to sections thirty-nine and forty-two of the Agriculture (Scotland) Act, 1948.

Notes

(*a*) **Agriculture Act, 1947, ss. 98, 101.**—1 Halsbury's Statutes (2nd Edn.), 212, 215. The animals to which s. 98 of that Act applies are rabbits, hares and other rodents, deer, foxes and moles.

(*b*) **Minister.**—*I.e.*, the Minister of Agriculture and Fisheries, or, in relation to Scotland, the Secretary of State; see s. 28 (1), p. A61, *post*.

(*c*) **S. 4 of this Act.**—That section (printed in 19 Halsbury's Statutes (2nd Edn.), 536) empowers local authorities to require the owner or occupier of land to destroy rats and mice.

(*d*) **Infestation.**—For meaning, see s. 28 (1), p. A61, *post*.

21. Regulations.—(1) Any power of the Minister (*a*) to make regulations under this Act, and the power of the Minister to give general directions under section twelve of this Act and to make orders under section eighteen of this Act, shall be exercisable by statutory instrument (*b*).

(2) Any statutory instrument containing an Order in Council or regulations made under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Notes

(*a*) **Minister.**—*I.e.*, the Minister of Agriculture and Fisheries, or, in relation to Scotland, the Secretary of State; see s. 28 (1), p. A61, *post*.

(*b*) **Statutory Instrument.**—Provision concerning the numbering, printing, publication and citation of statutory instruments is made by the

Statutory Instruments Act, 1946, s. 2 (24 Halsbury's Statutes (2nd Edn.), 442). The procedure in relation to instruments which are subject to annulment by resolution and the effect of annulment are set out in s. 5 of that Act ; and see also the Laying of Documents before Parliament (Interpretation) Act, 1948 (24 Halsbury's Statutes (2nd Edn.), 448).

22. Powers of entry.—(1) . . .

(2) Any person duly authorised in writing by the Minister (*a*), or by a local authority to whom functions of the Minister under Part II of this Act are delegated (*b*), may, at any reasonable time, enter upon any land (*c*)—

(a) for the purpose of ascertaining whether there is or has been, on or in connection with the land or any vehicle thereon, any failure to comply with any requirement of the said Part II or of any directions (*d*) given thereunder ;

(b) for the purpose of taking any steps authorised to be taken on or in relation to the land under the said Part II by a person named in an order (*e*) made by the Minister or by that authority thereunder,

and where any such person has entered on any premises for the purposes specified in paragraph (a) of this subsection, he may take samples of any food (*f*) found on those premises.

(3) Any person authorised under this section to enter upon any land shall, if so required, produce evidence of his authority before so entering, and shall not demand admission as of right to any land which is occupied unless twenty-four hours' notice of the intended entry has been given to the occupier.

(4) Any person who wilfully obstructs a person acting in the exercise of his powers under this section shall be liable on summary conviction (*g*) to a fine not exceeding in the case of a first offence five pounds, and in the case of a second or any subsequent offence twenty pounds.

(5) If any person who, in compliance with the provisions of this section, is admitted into a factory, workshop or work place, discloses to any person any information obtained by him therein as to any manufacturing process or trade secret, he shall, unless the disclosure is made in the course of performing his duty in connection with the purpose for which he was authorised to enter the premises, be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months.

(6) If any land is damaged in the exercise of a power of entry conferred under this section, compensation in respect of that damage may be recovered by any person interested in the land

from the local authority on whose behalf the entry was effected, or from the Minister, as the case may be.

Notes

(*a*) **Minister.**—*I.e.*, the Minister of Agriculture and Fisheries, or, in relation to Scotland, the Secretary of State ; see s. 28 (1), p. A61, *post*.

(*b*) **Local authority to whom functions . . . are delegated.**—See s. 18, p. A55, *ante*.

(*c*) **Land.**—For meaning, see s. 28 (1), p. A61, *post*.

(*d*) **Directions.**—See s. 14, p. A52, *ante*.

(*e*) **Person named in an order.**—See s. 16, p. A54, *ante*.

(*f*) **Food.**—For meaning, see s. 28 (1), p. A61, *post*.

(*g*) **Liable on summary conviction.**—For restrictions on the institution of legal proceedings, see s. 26 (1), p. A60, *post*.

23. Application to shipping and aircraft.—(1) His Majesty may by Order in Council direct that the provisions of this Act shall apply, subject to such exceptions and modifications as may be prescribed by the Order, in relation to vessels or aircraft as they apply in relation to land :

Provided that Part I of this Act shall not be applied by any such Order in Council in relation to vessels employed in trading or going between a place in the United Kingdom, the Channel Islands or the Isle of Man and a place not within the United Kingdom, the Channel Islands or the Isle of Man.

(2) Any Order in Council made under this section may be varied or revoked by a subsequent Order in Council.

Notes

Order under this section.—See the Prevention of Damage by Pests (Application to Shipping) Order, 1951 (S. I. 1951, No. 967). At the date of going to press, no Order has been made applying this Act to aircraft. For procedure concerning Orders, see s. 21 (2), p. A57, *ante*.

Northern Ireland.—This section extends to Northern Ireland ; see s. 29 (1), p. A61, *post*.

24. Expenses of Common Council.—Subsections (3) and (5) of section two hundred and eighty-seven of the Public Health (London) Act, 1936 (*a*) (which relate to the expenses of the Common Council and the port health authority of the port of London under that Act) shall apply to expenses incurred under this Act as they apply to expenses incurred under that Act.

Note

(*a*) **Public Health (London) Act, 1936, s. 287 (3), (5).**—15 Halsbury's Statutes (2nd Edn.), 1024.

* * * * *

26. Legal proceedings.—(1) Proceedings for an offence under this Act shall not, in England and Wales, be instituted except by or with the consent of the Minister (*a*) or the local authority (*b*).

(2) Where an offence under this Act is committed by a body corporate, every person who, at the time of the commission of the offence, was a director, general manager, secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence unless he proves that it was committed without his consent or connivance and that he exercised any such diligence to prevent its commission as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

(3) For the purposes of the last foregoing subsection, the expression " director," in relation to any body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by the members thereof, means a member of that body.

Notes

(*a*) **Minister.**—*I.e.*, the Minister of Agriculture and Fisheries, or, in relation to Scotland, the Secretary of State ; see s. 28 (1), p. A61, *post*.

(*b*) **Local authority.**—See ss. 1, 18, 22 (2), pp. A50, A55, A58, *ante*.

27. Financial provisions.—(1) There shall be paid out of moneys provided by Parliament—

(a) any expenses of the Minister (*a*) under this Act ;

(b) any increase in the Exchequer Equalisation Grant payable under Part I or Part II of the Local Government Act, 1948 (*b*), attributable to any expenditure of a local authority (*c*) under this Act ;

(c) any expenses of the Minister in carrying out research in matters connected with the functions of the Minister and of local authorities under this Act.

(2) Any receipts of the Minister under this Act shall be paid into the Exchequer.

Notes

(*a*) **Minister.**—*I.e.*, the Minister of Agriculture and Fisheries, or, in relation to Scotland, the Secretary of State ; see s. 28 (1), p. A61, *post*.

(*b*) **Exchequer Equalisation Grant.**—For the meaning of this term in relation to England and Wales, see the Local Government Act, 1948, s. 2 (14 Halsbury's Statutes (2nd Edn.), 655), and see generally Part I of that Act (14 Halsbury's Statutes (2nd Edn.), 655–665). Part II of that Act makes corresponding provisions in relation to Scotland.

(*c*) **Local authority.**—As to expenses of local authorities under Part II of this Act, see also s. 18 (3), p. A56, *ante*.

28. Interpretation.—(1) In this Act, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say :—

* * * * *

" container " includes sacks, boxes, tins and other similar articles ;

" defendant," in relation to Scotland, means defender ;

" food " includes any substance ordinarily used in the composition or preparation of food, the seeds of any cereal or vegetable, and any feeding stuffs for animals, but does not include growing crops ;

" infestation " means the presence of rats, mice, insects or mites in numbers or under conditions which involve an immediate or potential risk of substantial loss of or damage to food, and " infested " shall be construed accordingly ;

" land " includes land covered with water, and any building or part of a building ;

" manufacture " includes processing ;

" the Minister " (*a*) means the Minister of Agriculture and Fisheries, or, in relation to Scotland, the Secretary of State ;

* * * * *

(2) . . .

Notes

The omitted portions of this section are not relevant to the construction of the sections of this Act printed, *ante*.

(*a*) **Minister.**—The functions of the Minister of Food under the Infestation Order, 1943 (S. R. & O. 1943, No. 680, as amended), (which is now superseded by Part II of this Act) were transferred to the Minister of Agriculture and Fisheries and the Secretary of State by the Transfer of Functions (Infestation Control) Order, 1947 (S. R. & O. 1947, No. 1705), and the Transfer of Functions (Pest Control) (Scotland) Order, 1947 (S. R. & O. 1947, No. 1706).

29. Application to Northern Ireland.—(1) Section twenty-three of this Act shall extend to Northern Ireland, and for that purpose shall have effect as if the reference therein to the provisions of this Act included a reference to any corresponding provisions for the time being in force in Northern Ireland.

(2) No limitation or restriction imposed on the power of the parliament of Northern Ireland to make laws shall extend to prevent that parliament from enacting a provision the purposes

whereof are similar to the purposes of any provision of this Act other than the said section twenty-three.

(3) Subject to the foregoing provisions of this section, this Act shall not extend to Northern Ireland.

Note

The Parliament of Northern Ireland has not yet availed itself of the powers conferred by sub-s. (2).

30. Short title, repeal and commencement.—(1) This Act may be cited as the Prevention of Damage by Pests Act, 1949.

(2) The Rats and Mice (Destruction) Act, 1919, is hereby repealed.

(3) This Act shall come into force on the thirty-first day of March, nineteen hundred and fifty.

FOOD AND DRUGS (MILK, DAIRIES AND ARTIFICIAL CREAM) ACT, 1950.

[14 GEO. 6, c. 35]

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An Act to consolidate certain enactments relating to milk, dairies and artificial cream. [26th October 1950.]

Note.—This Act, which by virtue of s. 37, p. A101, *post*, extends only to England and Wales, repeals and replaces in a consolidated form Part II of the Food and Drugs Act, 1938 (p. 124 of the Main Volume), as amended by the Food and Drugs (Milk and Dairies) Act, 1944 (p. 249 of the Main Volume), the Transfer of Functions (Food and Drugs) Order, 1948 (S. I. 1948, No. 107), Arts. 3–5, 6 (2), the Milk (Special Designations) Act, 1949, and the Agriculture (Miscellaneous Provisions) Act, 1949, s. 7 and Schedule, Part I.

A table of enactments repealed and replaced by this Act is printed at p. A101, *post*. The notes, contained in the main work, to Part II of the Food and Drugs Act, 1938, should be consulted for the purpose of construing provisions of this Act corresponding to the repealed provisions of that Act. Cases decided, and instruments made, under the repealed enactments since the publication of the main work and amendments, etc., to those enactments prior to repeal are noted to the relevant enactments in the Noter-up to the Main Work, *ante*.

Part I

Milk and Dairies

Milk and Dairies Regulations

1. Power to make regulations to secure the purity of milk.—(1) Provision may be made by regulations under this Part of this Act, to be called " Milk and Dairies Regulations " (*a*)—

(a) for the inspection of cattle (*b*) on dairy farms (*c*) ;

(b) for the inspection of dairies (*c*), and of persons in or about dairies who have access to the milk, or to the churns or other milk vessels (*c*) ;

(c) with respect to the lighting, ventilation, cleansing, drainage, and water supply of dairies ;

(d) for securing the cleanliness of churns and other milk vessels and appliances ;

(e) prescribing the precautions to be taken for protecting milk against infection or contamination ;

(f) for preventing danger to health from the sale of infected, contaminated or dirty milk, and in particular for prohibiting the supply or sale of milk suspected of being infected ;

(g) for imposing obligations on dairymen (*c*) and their employees in regard to cases of infectious illness ;

(h) for regulating the cooling, storage, conveyance and distribution of milk ;

(i) with respect to the labelling, marking or identification, and the sealing or closing of churns and other vessels used for the conveyance of milk, the labelling of vessels in which milk is sold or offered or exposed for sale or delivered, and the display of the vendor's name and address on any stall, or any cart, barrow or other vehicle, from which milk is sold or delivered ;

(j) in cases where no express provision (*d*) is made by the Food and Drugs Act, 1938, or this Act, prohibiting or restricting—

(i) the addition of any substance to (*c*), or the abstraction of fat or any other constituent from, milk ;

(ii) the sale of milk to which any such addition, or from which any such abstraction, has been made, or which has been otherwise artificially treated ;

(k) for preventing danger to health from the importation of milk.

In this subsection the expression " milk " means milk intended for sale or sold for human consumption, or intended for manufacture into products for sale for human consumption.

(2) Regulations made under paragraph (i) or paragraph (j) of the foregoing subsection shall not apply in relation to cream (*c*) in so far as they are made for any purpose for which regulations with respect to cream may be made under paragraph (b) or paragraph (c) of subsection (1) of section eight of the Food and Drugs Act, 1938 (*e*) (which authorise the making of regulations requiring the labelling or marking of food containers and regulating the composition of food).

Notes

This section corresponds to s. 20 (1) (b)–(k) and (2) of the Food and Drugs Act, 1938 (p. 124 of the Main Volume), and s. 1 (5), (6) of the Food and Drugs (Milk and Dairies) Act, 1944 (p. 251 of the Main Volume).

(*a*) **Milk and Dairies Regulations.**—At the date of going to press, no regulations have been made under this section. The regulations at present in force are the Milk and Dairies Regulations, 1949 (S. I. 1949, No. 1588), which were made under s. 20 of the Food and Drugs Act, 1938, and other enactments repealed and consolidated by this Act, and are kept in force by virtue of the saving contained in s. 36 (2), p. A101, *post* ; see also the Public Health (Imported Milk) Regulations, 1926 (p. 291 of the Main Volume).

The power to make regulations is to be exercised by the Minister of Health, the Minister of Food and the Minister of Agriculture and Fisheries acting jointly ; see s. 4, p. A68, *post*. The power is exercisable by statutory instrument ; see s. 33, p. A97, *post*.

(*b*) **Cattle.**—This term is not defined for the purposes of this Act. It presumably includes calves ; cf. *Williams* v. *Davies* (1920), 89 L. J. K. B. 1164 ; 25 Digest 139, *564*. In certain other Acts, the expression " cattle " has been defined expressly where it is intended to include animals other than bovines (see, *e.g.*, the Dogs Act, 1906, s. 7 (1 Halsbury's Statutes (2nd Edn.), 874), where it is defined as including " horses, mules, asses, sheep, goats and swine ") ; but in some instances, where the term has been used without a definition, it has been held to have a wide meaning ; thus in relation to malicious damage, it has been held to include horses (*R.* v. *Paty* (1770), 2 Wm. Bl. 721 ; 15 Digest 1037, *11*, *691*) ; pigs (*R.* v. *Chapple* (1804), Russ. & Ry. 77 ; 15 Digest 1037, *11*, *694*) ; and asses (*R.* v. *Whitney* (1824), 1 Mood. C. C. 3 ; 15 Digest 1037, *11*, *695*) ; and in the Railways Clauses Consolidation Act, 1845, s. 68 (19 Halsbury's Statutes (2nd Edn.), 628), it has been held to include " pigs " (*Child* v. *Hearn* (1874), L. R. 9 Exch. 176 ; 38 Digest 288, *220*). But it would appear that the context is sufficient to restrict the meaning of " cattle " as used in the present section to bulls, cows, calves and other bovine animals.

(*c*) **Definitions.**—For " cream," " dairy," " dairy farm," " dairyman," " substance," " vessel," see s. 34 (1), p. A97, *post*. See also s. 34 (1), p. A97, *post*, for the general meaning of " milk " (which is specially defined in the concluding sentence of sub-s. (1) of this section).

(*d*) **Express provision.**—See the Food and Drugs Act, 1938, ss. 1, 2 (pp. 79, 85 of the Main Volume) ; and s. 9 of this Act, p. A73, *post*.

(*e*) **Food and Drugs Act, 1938, s. 8 (1).**—See p. 109 of the Main Volume.

2. Registration of dairymen under regulations.—(1) Milk and Dairies Regulations may provide (*a*) for the registration of persons carrying on, or proposing to carry on, the trade of a dairyman (*b*) and for the registration of dairies (*b*), and for prohibiting any person from carrying on the said trade unless he and any premises (*b*) used by him as a dairy are duly registered.

(2) Part I of the First Schedule to this Act shall have effect with respect to refusing or cancelling the registration of dairymen (*c*).

Notes

Sub-s. (1) reproduces s. 20 (1) (a) of the Food and Drugs Act, 1938 (p. 124 of the Main Volume). Sub-s. (2) and the First Schedule, Part I

(p. A102, *post*), correspond to s. 22 of the Food and Drugs Act, 1938 (p. 128 of the Main Volume), as amended by s. 3 of, and the Schedule to, the Food and Drugs (Milk and Dairies) Act, 1944 (pp. 252, 254 of the Main Volume).

Continuance of registration on death.—S. 97 of the Food and Drugs Act, 1938 (p. 220 of the Main Volume), will apply to registration under this Act by virtue of s. 32, p. A97, *post*.

(*a*) **Regulations may provide.**—See Part III of the Milk and Dairies Regulations, 1949 (S. I. 1949, No. 1588), which are kept in force by virtue of the saving contained in s. 36 (2), p. A101, *post*.

(*b*) **Definitions.**—For "dairy," "dairyman," "premises," see s. 34 (1), p. A97, *post*.

(*c*) **Refusing or cancelling the registration of dairymen.**—It should be noted that the power of cancelling registration does not extend to premises used as a dairy; but see Reg. 8 (1) of the Milk and Dairies Regulations, 1949 (S. I. 1949, No. 1588), by which premises no longer used are to be removed from the register.

3. Registration of dairy farms and dairy farmers under regulations.—(1) Milk and Dairies Regulations shall provide (*a*) for the registration by the Minister of Agriculture and Fisheries of dairy farms (*b*) and of persons carrying on, or proposing to carry on, the trade of a dairy farmer (*b*).

(2) Such regulations shall make provision in accordance with Part II of the First Schedule to this Act for dealing with the refusal and cancellation of any such registration.

Notes

Sub-s. (1) of this section corresponds to s. 1 (2) (a) of the Food and Drugs (Milk and Dairies) Act, 1944 (p. 249 of the Main Volume). Sub-s. (2) and the First Schedule, Part II (p. A103, *post*), correspond to s. 1 (2) (b) and (3) of the Food and Drugs (Milk and Dairies) Act, 1944 (p. 249 of the Main Volume), and s. 7 (3) of the Agriculture (Miscellaneous Provisions) Act, 1949.

Transitional provisions.—For transitional provisions concerning the registration of dairy farms and dairy farmers, see s. 35 (2), p. A99, *post*.

Continuance of registration on death.—See note to s. 2, *supra*.

(*a*) **Regulations shall provide.**—See Part II of the Milk and Dairies Regulations, 1949 (S. I. 1949, No. 1588), which are kept in force by virtue of the saving contained in s. 36 (2), p. A101, *post*.

(*b*) **Dairy farms : dairy farmer.**—For meaning of these expressions, see s. 34 (1) p. A97, *post*.

Ancillary provisions as to Milk and Dairies Regulations

4. Provisions as to making of Milk and Dairies Regulations.—(1) The power of making Milk and Dairies Regulations shall be exercisable by the Minister of Health, the Minister of Food and the Minister of Agriculture and Fisheries acting jointly.

(2) The Ministers before making the regulations shall consult (*a*) with such representative organisations as they think fit (*b*).

(3) The regulations may be general regulations or regulations limited to a particular area.

Notes

Sub-s. (1) of this section reproduces the effect of Art. 3 (1) of the Transfer of Functions (Food and Drugs) Order, 1948 (S. I. 1948, No. 107), which transferred, from the Minister of Health alone to the Ministers now specified, the power to make Milk and Dairies Regulations conferred by s. 20 (1) of the Food and Drugs Act, 1938 (p. 124 of the Main Volume). Sub-s. (2) reproduces, in relation to Milk and Dairies Regulations, s. 92 (4) of that Act (p. 214 of the Main Volume). Sub-s. (3) reproduces s. 20 (3) of that Act (p. 125 of the Main Volume).

(*a*) **Shall consult.**—In interpreting the expression " after consultation " as used in the New Towns Act, 1946, s. 1 (1) (25 Halsbury's Statutes (2nd Edn.), 427), BUCKNILL, L.J., in *Rollo* v. *Minister of Town and Country Planning*, [1948] 1 All E. R. 13, C. A., at p. 17 ; 2nd Digest Supp., said that consultation in that subsection meant that " on the one hand the Minister must supply sufficient information to the local authority to enable them to tender advice and, on the other hand, a sufficient opportunity must be given to the local authority to tender that advice. If a complaint is made of failure to consult, it is for the court to examine the facts and circumstances of the particular case and to decide whether or not consultation was in fact held " ; see also *Fletcher* v. *Minister of Town and Country Planning*, [1947] 2 All E. R. 496 ; 2nd Digest Supp. It is not necessary that the Ministers should themselves do the consulting (*Carltona, Ltd.* v. *Works Comrs.*, [1943] 2 All E. R. 560, C. A. ; 2nd Digest Supp.).

(*b*) **As they think fit.**—Subject to their acting in good faith, the Ministers are, by this provision, given a complete discretion, and their actions cannot be called in question in the courts ; see *R.* v. *Comptroller-General of Patents, Ex parte Bayer Products, Ltd.*, [1941] 2 K. B. 306, C. A. ; [1941] 2 All E. R. 677 ; 2nd Digest Supp.

5. Committees to review working of regulations.—Milk and Dairies Regulations shall provide for the constitution of a central committee, and of county committees (*a*) for the several administrative counties, to keep under review the operation and administration of the regulations and to make recommendations with respect thereto, in the case of the central committee, to the Minister of Agriculture and Fisheries and, in the case of a county committee, to the central committee.

Notes

This section corresponds to s. 4 (3) (in part) of the Food and Drugs (Milk and Dairies) Act, 1944 (p. 253 of the Main Volume).

(*a*) **Committees.**—Milk and Dairies Regulations are also to provide for the review of Milk (Special Designation) Regulations and for the making of recommendations with respect thereto by the Committees. See Part XIII of the Milk and Dairies Regulations, 1949 (S. I. 1949, No. 1588), which are kept in force by virtue of the saving contained in s. 36 (2), p. A101, *post*.

6. Ancillary provisions as to contents of Milk and Dairies Regulations.—Without prejudice to the generality of other provisions of this Part of this Act as to Milk and Dairies Regulations, such regulations may—

(a) apply, as respects matters to be dealt with by the regulations, any provision in the Food and Drugs Act, 1938 (*a*), or in this Act, or in any other Act dealing with the like matters, with the necessary modifications and adaptations ;

(b) provide for an appeal to a court of summary jurisdiction against any refusal or other decision of an authority by whom the regulations are to be enforced and executed ;

(c) authorise the making of charges for the purposes of the regulations or for any services performed thereunder and provide for the recovery of charges so made ;

(d) make such ancillary and incidental provisions as appear to the Ministers making the regulations to be necessary or desirable.

Notes

This section makes provision, in relation to Milk and Dairies Regulations, corresponding to s. 92 (2) (b), (c), (d), (f) of the Food and Drugs Act, 1938 (p. 214 of the Main Volume).

(*a*) **Any provision in the Food and Drugs Act, 1938.**—Certain provisions of that Act are applied by Regs. 20 (9) and 34 of the Milk and Dairies Regulations, 1949 (S. I. 1949, No. 1588), which are kept in force by virtue of the saving contained in s. 36 (2), p. A101, *post*.

7. Enforcement of Milk and Dairies Regulations.—(1) Milk and Dairies Regulations shall specify the authorities (*a*), whether county councils, local authorities (*b*), Food and Drugs authorities (*b*) or port health authorities (*c*), by whom they are to be enforced and executed, and may provide for the giving of assistance and information by any authority concerned in the administration of the regulations, or of this Act, or of the Food and Drugs, Act, 1938, to any other authority so concerned for the purposes of their respective duties thereunder :

Provided that this subsection shall not apply to the enforcement or execution of regulations in respect of dairy farms (*d*) or in respect of the registration of persons carrying on or proposing to carry on the trade of a dairy farmer (*d*), except any such regulation as is made for the purposes of paragraph (f) or paragraph (g) of subsection (1) of section one of this Act.

(2) The power of a county council or local authority under subsection (3) of section sixty-five of the Food and Drugs Act, 1938 (*e*), to institute proceedings under any regulation made under

that Act shall not include power to institute proceedings against any person for contravening or failing to comply with Milk and Dairies Regulations in respect of a dairy farm or in respect of the registration of persons carrying on or proposing to carry on the trade of a dairy farmer, except any such regulation as is made for the purposes of paragraph (f) or paragraph (g) of subsection (1) of section one of this Act.

(3) Any expenses incurred by a county council in the enforcement and execution of Milk and Dairies Regulations shall, if the Minister of Health by order so directs (*f*), be defrayed as expenses for special county purposes charged on such part of the county as may be provided by the order, but any such order may be revoked or varied by a subsequent order.

(4) The Minister of Health may, with the approval of the Treasury, repay out of moneys provided by Parliament such part, not exceeding three quarters, as he may with such approval determine of any sums paid by a local authority by way of compensation (*g*) to any person for damage or loss sustained by him by reason of any prohibition or restriction imposed by Milk and Dairies Regulations on the sale, supply or use of milk (*h*) which is infected or suspected of being infected.

(5) Milk and Dairies Regulations may in particular provide for imposing on persons contravening or failing to comply with the regulations penalties (*i*) not exceeding the following, that is to say—

(i) for a first offence a fine of twenty pounds ;

(ii) for a subsequent offence a fine of one hundred pounds or imprisonment for three months or both.

(6) Milk and Dairies Regulations may in particular provide for the taking and examination of samples (*j*).

Notes

Sub-s. (1) of this section reproduces, in relation to Milk and Dairies Regulations, s. 92 (3) of the Food and Drugs Act, 1938 (p. 214 of the Main Volume). The proviso corresponds to s. 4 (2) (b) of the Food and Drugs (Milk and Dairies) Act, 1944 (p. 152 of the Main Volume), as amended by the Agriculture (Miscellaneous Provisions) Act, 1949, s. 7 (2) and Schedule, Part I.

Sub-s. (2) reproduces s. 4 (1) of the Food and Drugs (Milk and Dairies) Act, 1944 (p. 152 of the Main Volume), as amended by s. 7 (2) of, and Part I of the Schedule to, the Agriculture (Miscellaneous Provisions) Act, 1949.

Sub-s. (3) reproduces, in relation to Milk and Dairies Regulations, s. 92 (6) of the Food and Drugs Act, 1938 (p. 214 of the Main Volume).

Sub-s. (4) reproduces s. 7 (1) of the Agriculture (Miscellaneous Provisions) Act, 1949.

Sub-s. (5) reproduces, in relation to Milk and Dairies Regulations,

s. 92 (2) (e) and s. 79 of the Food and Drugs Act, 1938 (pp. 214, 190 of the Main Volume).

Sub-s. (6) reproduces, in relation to Milk and Dairies Regulations, s. 92 (2) (a) of that Act.

(*a*) **Shall specify the authorities.**—See Reg. 3 of the Milk and Dairies Regulations, 1949, which are kept in force by virtue of the saving contained in s. 36 (2), p. A101, *post*. That regulation imposes the duty of enforcement on local authorities.

(*b*) **Local authorities: Food and Drugs authorities.**—These are defined by s. 64 of the Food and Drugs Act, 1938 (p. 167 of the Main Volume). The definitions are applied by s. 34 (1), p. A97, *post*.

(*c*) **Port health authorities.**—*Cf.* s. 76 of the Food and Drugs Act, 1938 (p. 184 of the Main Volume), which applies for purposes of this Act by virtue of s. 32, p. A97, *post*.

(*d*) **Dairy farms : dairy farmer.**—For meaning of these expressions, see s. 34 (1), p. A97, *post*.

(*e*) **Food and Drugs Act, 1938, s. 65 (3).**—See p. 169 of the Main Volume.

(*f*) **If the Minister of Health so directs.**—The functions of the Minister of Health under sub-s. (3) of this section were transferred to the Minister of Local Government and Planning by the Transfer of Functions (Minister of Health and Minister of Local Government and Planning) (No. 2) Order, 1951 (S. I. 1951, No. 753).

The title of the Minister of Local Government and Planning has since been changed to " the Minister of Housing and Local Government " by the Minister of Local Government and Planning (Change of Style and Title) Order, 1951 (S. I. 1951, No. 1900).

(*g*) **Sums paid by way of compensation.**—See Reg. 20 (6), (8) of the Milk and Dairies Regulations, 1949 (S. I. 1949, No. 1588).

(*h*) **Milk.**—For meaning, see s. 34 (1), p. A97, *post*.

(*i*) **Penalties.**—See Reg. 33 of the Milk and Dairies Regulations, 1949 (S. I. 1949, No. 1588).

(*j*) **Samples.**—See Regs. 10, 34 of the Milk and Dairies Regulations, 1949 (S. I. 1949, No. 1588).

Prohibitions on sale of milk not in a pure and genuine condition

8. Prohibition of sale of tuberculous milk, and milk of cows suffering from tuberculosis, &c.—(1) No person shall—

(a) sell, or offer or expose for sale, for human consumption (*a*); or

(b) use in the manufacture of products for sale for human consumption,

the milk (*b*) of any cow which to his knowledge has given tuberculous milk, or is suffering from emaciation due to tuberculosis, or from tuberculosis of the udder or any other disease of cows to which this section applies.

(2) In proceedings under this section the defendant shall be deemed to have known that a cow had given tuberculous milk, or was so suffering as aforesaid, if he could with ordinary care have ascertained the fact.

(3) A person who contravenes any of the provisions of this section shall be guilty of an offence (*c*).

(4) The diseases of cows to which this section applies are those specified in the Second Schedule to this Act and any other disease to which the provisions of this section are extended by Milk and Dairies Regulations.

(5) It shall be the duty of the council of every county and county borough to enforce the provisions of this section.

Notes

This section reproduces s. 25 of the Food and Drugs Act, 1938 (pp. 132, 133 of the Main Volume).

(*a*) **For human consumption.**—The presumptions contained in s. 81 (4) of the Food and Drugs Act, 1938 (p. 198 of the Main Volume), apply by virtue of s. 32, p. A97, *post*. See also s. 34 (2), p. A99, *post* (which reproduces s. 100 (2) (b) of that Act).

(*b*) **Milk.**—For meaning, see s. 34 (1), p. A97, *post*.

(*c*) **Guilty of an offence.**—The provisions concerning penalties, etc., contained in ss. 79 *et seq.* of the Food and Drugs Act, 1938 (pp. 190 *et seq.* of the Main Volume), will apply by virtue of s. 32, p. A97, *post*. For the application of s. 84 of that Act, see s. 36 (5), p. A101, *post*. See also the First Schedule, Part I, para. 4, p. A102, *post* (corresponding to s. 22 (4) of that Act).

9. Certain additions not to be made to milk, and certain liquids not to be sold as milk.—(1) No person shall—

(a) add any water or colouring matter, or any dried or condensed milk or liquid reconstituted therefrom, to milk (*a*) intended for sale for human consumption (*b*); or

(b) add any separated milk (*a*), or mixture of cream (*a*) and separated milk, to unseparated milk intended for such sale; or

(c) sell, or offer or expose for sale, or have in his possession for the purpose of sale, for human consumption any milk to which any addition has been made in contravention of the provisions of this subsection.

(2) No person shall sell, or offer or expose for sale, under the designation of milk any liquid in the making of which any separated milk or any dried or condensed milk has been used.

(3) A person who contravenes any of the provisions of this section shall be guilty of an offence (*c*).

(4) It shall be the duty of every Foods and Drugs authority (*d*) within their area (*e*) to carry into execution and enforce the provisions of this section, with a view to securing that food is sold only in a pure and genuine condition.

Notes

Sub-ss. (1)–(3) of this section re-enact s. 24 of the Food and Drugs Act, 1938 ; see p. 131 of the Main Volume, and cases cited in the Noter-up to that section, p. A15, *ante*. Sub-s. (4) re-enacts s. 65 (1) (b) of the earlier Act (p. 168 of the Main Volume).

(*a*) **Milk : separated milk : cream.**—For meaning, see s. 34 (1), p. A97, *post*.

(*b*) **For human consumption.**—See note to s. 8, p. A73, *ante*.

(*c*) **Guilty of an offence.**—See note to s. 8, p. A73, *ante*.

(*d*) **Food and Drugs authority.**—This expression is defined by s. 64 of the Food and Drugs Act, 1938 (p. 167 of the Main Volume). The definition is applied by s. 34 (1), p. A97, *post*.

(*e*) **Area.**—For meaning, see s. 34 (1), p. A97, *post*.

10. Regulations as to presumptive evidence of adulteration of milk.—The Minister of Health, the Minister of Food and the Minister of Agriculture and Fisheries acting jointly may make regulations (*a*) for determining what deficiency in any of the normal constituents of milk (*b*), or what proportion of water, in a sample shall for the purposes of the Food and Drugs Act, 1938, or this Act raise a presumption, until the contrary is proved, that the article sampled is not genuine milk.

Notes

This section reproduces s. 23 (1) of the Food and Drugs Act, 1938 (p. 130 of the Main Volume), as modified by Art. 5 of the Transfer of Functions (Food and Drugs) Order, 1948 (S. I. 1948, No. 107).

(*a*) **Regulations.**—At the date of going to press, no regulations have been made under this section. By virtue of the saving contained in s. 36 (2), p. A101, *post*, the Sale of Milk Regulations, 1939 (p. 258 of the Main Volume), remain in force.

The power to make regulations is exercisable by statutory instrument ; see s. 33, p. A97, *post*.

(*b*) **Milk.**—For meaning, see s. 34 (1), p. A97, *post*.

Establishment of milk depots

11. Establishment by certain councils of milk depots.—Where the local authority (*a*) of a district (*b*) outside London (*c*) are not a local health authority (*d*) for the purposes of Part III of the National Health Service Act, 1946, they may, with the approval of the Minister of Health, establish depots for the sale, at not less than cost price, of milk specially prepared for consumption by infants under two years of age, and for that purpose may purchase and prepare milk and provide any necessary plant.

Notes

This section corresponds to s. 26 of the Food and Drugs Act, 1938 (p. 133 of the Main Volume).

(*a*) **Local authority.**—This term is defined by s. 64 of the Food and Drugs Act, 1938 (p. 167 of the Main Volume). The definition is applied by s. 34 (1), p. A97, *post*.

(*b*) **District.**—This is defined by s. 100 (1) of the Food and Drugs Act, 1938 (p. 222 of the Main Volume). The definition is not expressly applied for the purposes of this Act, but see s. 32, p. A97, *post*.

(*c*) **London.**—*I.e.*, the administrative county ; see s. 34 (1), p. A97, *post*.

(*d*) **Local health authority.**—See s. 19 of the National Health Service Act, 1946 (15 Halsbury's Statutes (2nd Edn.), 355), which defines local health authorities for the purpose of Part III of that Act.

Veterinary inspectors

12. Veterinary inspectors to be appointed by Minister of Agriculture.—The functions of veterinary inspectors under any enactments relating to milk or to dairies (*a*) shall, in accordance with directions given by the Minister of Agriculture and Fisheries, be discharged by veterinary inspectors appointed for the purpose by him under section five of the Board of Agriculture Act, 1889 (*b*).

Notes

This section reproduces a provision formerly contained in s. 19 (1) of the Agriculture Act, 1937 (1 Halsbury's Statutes (2nd Edn.), 999), of which the relevant portion has been repealed by s. 36, and the Fifth Schedule, pp. A100, A109, *post*.

(*a*) **Milk : dairies.**—These terms are defined by s. 34 (1), p. A97, *post*.

(*b*) **Board of Agriculture Act, 1889, s. 5.**—4 Halsbury's Statutes (2nd Edn.), 444.

Part II

Special Designations of Milk

Regulations as to special designations, and provisions as to use thereof

13. Prescribing of special designations, licences to use them and authorised use.—(1) Provision may be made by regulations under this Part of this Act, to be called " Milk (Special Designation) Regulations " (*a*)—

(a) for prescribing, in relation to milk (*b*) of any description, such designation (hereinafter referred to as a " special designation ") as the Ministers making the regulations (*c*) consider appropriate ; and

(b) for the granting of licences (*d*) to producers and sellers of milk authorising the use of a special designation, and for prescribing the periods for which and the conditions subject to which licences or licences of any particular class are to be granted under the regulations.

(2) No person shall for the purpose of the sale or advertisement of any milk use a special designation in any manner calculated to suggest that it refers to that milk, unless he holds a licence authorising the use of that designation in connection with that milk :

Provided that, for the purpose of a sale or advertisement of milk as, or as part of, a meal or refreshments, a special designation may be used by a person who does not hold a licence authorising the use of that designation in connection with the milk, if the milk is milk bought by him and that designation was used for the purpose of the sale thereof to him.

(3) No person shall for the purpose of the sale or advertisement of any milk refer to that milk by any such description, not being a special designation, as is calculated falsely to suggest—

(a) that there is in force a licence authorising the use of a special designation in connection with that milk ; or

(b) that the milk is tested, approved or graded by any competent person ; or

(c) that the cows from which the milk is derived are free from the infection of tuberculosis or of any other disease.

(4) A person who contravenes any of the provisions of subsection (2) or (3) of this section shall be guilty of an offence (*e*).

(5) In any proceedings taken by virtue of subsection (3) of this section it shall rest on the defendant to prove the truth of any suggestion which, in the opinion of the court, his acts or conduct, as proved by the prosecution, are or is calculated to convey.

(6) It shall be the duty of every Food and Drugs authority within their area (*f*) to carry into execution and enforce the provisions of subsections (2) and (3) of this section :

Provided that this subsection shall not apply to the execution or enforcement of those provisions as regards any use of a special designation, or any reference to milk by such a description as is mentioned in subsection (3) of this section, by the producer of the milk in question where that milk is raw milk.

(7) Section twenty-eight of this Act shall apply for the interpretation of the references in this section to selling milk but as if the definition of milk in that section were omitted.

Notes

Sub-s. (1) of this section (in conjunction with sub-s. (7) and ss. 15 (1) and 17 (1), pp. A78, A79, *post*) replaces s. 21 (1) (a)–(c) of the Food and Drugs Act, 1938 (p. 126 of the Main Volume), as amended by s. 2 of the Food and Drugs (Milk and Dairies) Act, 1944 (p. 251 of the Main Volume),

the Transfer of Functions (Food and Drugs) Order, 1948 (S. I. 1948, No. 107), Arts. 4 and 6 (2), and s. 14 (2), (3) of the Milk (Special Designations) Act, 1949.

Sub-ss. (2), (3) (in conjunction with sub-s. (7)) replace s. 21 (2) of the Food and Drugs Act, 1938 (p. 126 of the Main Volume), as amended by ss. 12 (2) and 14 (2), (3) of the Milk (Special Designations) Act, 1949.

Sub-ss. (4), (5) replace s. 21 (3) of the Food and Drugs Act, 1938 (p. 127 of the Main Volume).

Sub-s. (6) replaces s. 21 (4) of the Food and Drugs Act, 1938 (p. 127 of the Main Volume), as substituted by s. 12 (3) of the Milk (Special Designations) Act, 1949.

Sub-s. (7) (in conjunction with s. 28, p. A92, *post*) replaces s. 14 (1) (in part), (2), (3) (in part) of the Milk (Special Designations) Act, 1949.

(*a*) **Milk (Special Designation) Regulations.**—At the date of going to press, no regulations have been made under this Part of this Act. By virtue of the saving contained in s. 36 (2), p. A101, *post*, the following regulations, made under enactments replaced by this Part, are continued in force: the Milk (Special Designation) (Pasteurised and Sterilised Milk) Regulations, 1949 (S. I. 1949, No. 1589, as amended by S. I. 1950, No. 409); the Milk (Special Designation) (Raw Milk) Regulations, 1949 (S. I. 1949, No. 1590, as amended by S. I. 1950, No. 410).

The power to make regulations is exercisable by statutory instrument; see s. 33, p. A97, *post*.

(*b*) **Milk.**—Sub-s. (7) excludes the definition of "milk" contained in s. 28, p. A92, *post*, which is otherwise applied for the interpretation of references to selling milk. The definition of "milk" contained in s. 34 (1), p. A97, *post*, is therefore the definition applicable for all purposes of this section.

(*c*) **Ministers making the regulations.**—See s. 15 (1), p. A78, *post*.

(*d*) **Granting of licences.**—For the authorities by whom licences may be granted, see s. 17 (1), p. A79, *post*, and notes thereto. For the temporary continuance of licences on death of the licensee, see s. 97 of the Food and Drugs Act, 1938 (p. 220 of the Main Volume), which applies by virtue of s. 32, p. A97, *post*.

(*e*) **Guilty of an offence.**—Ss. 79, 83 of the Food and Drugs Act, 1938 (pp. 190, 200 of the Main Volume), will apply by virtue of s. 32, p. A97, *post*. See also the First Schedule, Part I, para. 4, p. A102, *post* (corresponding to s. 22 (4) of that Act).

(*f*) **Food and Drugs authority within their area.**—The definition of "Food and Drugs authority," contained in s. 64 of the Food and Drugs Act, 1938 (p. 167 of the Main Volume), is applied by s. 34 (1), p. A97, *post*. For "area," see s. 34 (1), p. A97, *post*.

14. Revocation, suspension and refusal of licences to use a special designation.—(1) The provisions of Part I of the Third Schedule to this Act shall have effect with respect to the making by Milk (Special Designation) Regulations of provision for—

(a) the revocation or suspension of licences (*a*) authorising the use of a special designation on the ground of a breach of condition of the licence;

(b) procedure in connection with decisions to revoke or suspend such licences or to refuse grants of such licences (*b*).

(2) Where there has been a breach of a condition subject to which a licence authorising the use of a special designation is granted, but the licence has not been revoked or suspended, the breach shall not be treated as rendering the use of the designation unauthorised for any of the purposes of the last foregoing section or of any other provision of this Act.

Notes

Sub-s. (1) of this section and Part I of the Third Schedule, p. A105, *post*, replace, in part, s. 11 (1)–(3) of the Milk (Special Designations) Act, 1949, which itself replaced s. 21 (1) (d), (e) of the Food and Drugs Act, 1938 (p. 126 of the Main Volume). Sub-s. (2) corresponds to s. 12 (1) of the Milk (Special Designations) Act, 1949.

(*a*) **Revocation, suspension or refusal of licences.**—See Part III of the Milk (Special Designation) (Pasteurised and Sterilised Milk) Regulations, 1949 (S. I. 1949, No. 1589) and Parts IV and VI of the Milk (Special Designation) (Raw Milk) Regulations, 1949 (S. I. 1949, No. 1590, as amended by S. I. 1950, No. 410), which continue in force by virtue of the saving contained in s. 36 (2), p. A101, *post*.

Ancillary provisions as to Milk (Special Designation) Regulations

15. Provisions as to making of Milk (Special Designation) Regulations.—(1) The power of making Milk (Special Designation) Regulations shall be exercisable—

(a) except in so far as the regulations relate to raw milk (*a*), by the Minister of Health and the Minister of Food acting jointly ;

(b) in so far as the regulations relate to raw milk, by the said Ministers acting jointly with the Minister of Agriculture and Fisheries.

(2) The Ministers before making such regulations shall consult (*b*) with such representative organisations as they think fit (*b*).

Notes

Power to make regulations relating to special designations was originally vested in the Minister of Health alone by virtue of the combined operation of ss. 20 (1) and 21 (1) of the Food and Drugs Act, 1938 (pp. 124, 126 of the Main Volume). Sub-s. (1) of this section reproduces the effect of the transfers of powers made by s. 2 (2) of the Food and Drugs (Milk and Dairies) Act, 1944 (p. 251 of the Main Volume), and Art. 4 of the Transfer of Functions (Food and Drugs) Order, 1948 (S. I. 1948, No. 107). Sub-s. (2) reproduces, in relation to Milk (Special Designation) Regulations, s. 92 (4) of the Food and Drugs Act, 1938 (p. 214 of the Main Volume), as modified by s. 4 (2) (a) of the Food and

Drugs (Milk and Dairies) Act, 1944 (p. 252 of the Main Volume), and Art. 4 of the above-mentioned Order.

(*a*) **Raw milk.**—*I.e.*, milk which has not been treated by heat; see s. 34 (1), p. A97, *post*.

(*b*) **Shall consult : as they think fit.**—See notes to s. 4, p. A69, *ante*.

16. Committees to review working of Milk (Special Designation) Regulations.—Milk and Dairies Regulations shall provide for the keeping under review (*a*) by the committees appointed under those regulations of the operation and administration of Milk (Special Designation) Regulations and for the making of recommendations (*a*) with respect thereto in like manner as in the case of recommendations made under section five of this Act with respect to the operation of Milk and Dairies Regulations.

Notes

This section corresponds to s. 4 (3) (in part) of the Food and Drugs (Milk and Dairies) Act, 1944 (p. 253 of the Main Volume).

(*a*) **Review and recommendations.**—See Part XIII of the Milk and Dairies Regulations, 1949 (S. I. 1949, No. 1588) which are continued in force by virtue of s. 36 (2), p. A101, *post*.

17. Ancillary provisions as to contents of Milk (Special Designation) Regulations.—(1) Provision made by Milk (Special Designation) Regulations for the granting of licences (*a*) authorising the use of a special designation shall be for the granting thereof by the following, that is to say—

(a) either the Minister of Food or county councils or local authorities (*b*), as may be provided by the regulations, except as respects licences authorising the use of a special designation of raw milk (*c*) by the producer of such milk;

(b) as respects such last-mentioned licences, the Minister of Agriculture and Fisheries.

(2) The conditions prescribed by such regulations subject to which licences may be granted may include conditions as to the payment of fees.

(3) Without prejudice to the generality of other provisions of this Part of this Act as to such regulations, they may—

(a) apply, as respects matters to be dealt with by the regulations, any provisions in the Food and Drugs Act, 1938, or in this Act, or in any other Act dealing with the like matters, with the necessary modifications and adaptations;

(b) provide for an appeal to a court of summary jurisdiction against any refusal or other decision of an authority by

whom the regulations are to be enforced and executed, so, however, that this paragraph shall have effect subject to the provisions of paragraph 3 of the Third Schedule to this Act ;

(c) authorise the making of charges for the purposes of the regulations or for any services performed thereunder, and provide for the recovery of the charges so made ;

(d) make such ancillary and incidental provisions as appear to the Ministers making the regulations (*d*) to be necessary or desirable.

Notes

Sub-s. (1) of this section corresponds to s. 21 (1) (b) (in part) of the Food and Drugs Act, 1938 (p. 126 of the Main Volume), as amended by s. 2 (3) of the Food and Drugs (Milk and Dairies) Act, 1944 (p. 251 of the Main Volume), and Art. 6 (2) of the Transfer of Functions (Food and Drugs) Order, 1948 (S. I. 1948, No. 107). Sub-s. (2) corresponds to s. 21 (1) (c) of the Food and Drugs Act, 1938 (p. 126 of the Main Volume). Sub-s. (3) replaces (in relation to Milk (Special Designation) Regulations) s. 92 (2) (b)–(d) and (f) of the Food and Drugs Act, 1938 (p. 214 of the Main Volume), as applied subject to modifications by s. 4 (2) of the Food and Drugs (Milk and Dairies) Act, 1944 (p. 252 of the Main Volume), Art. 4 of the Transfer of Functions (Food and Drugs) Order, 1948, and s. 11 (3) of the Milk (Special Designations) Act, 1949.

(*a*) **Granting of licences.**—For provision which is in accordance with sub-s. (1) of this section, see the Milk (Special Designation) (Pasteurised and Sterilised Milk) Regulations, 1949, (S. I. 1949, No. 1589, as amended by S. I. 1950, No. 409), Reg. 4, and the Milk (Special Designation) (Raw Milk) Regulations, 1949, (S. I. 1949, No. 1590, as amended by S. I. 1950, No. 410), Regs. 8 (1) and 14 (1), which continue in force by virtue of s. 36 (2), p. A101, *post*.

The functions of the Minister of Agriculture and Fisheries of granting producers' licences relating to raw milk have been delegated to County Agricultural Executive Committees ; see the Milk and Dairies (Delegation to County Agricultural Executive Committees) Regulations, 1949 (S. I. 1949, No. 1487, as amended by S. I. 1950, No. 1818).

(*b*) **Local authorities.**—The definition of this expression contained in s. 64 of the Food and Drugs Act, 1938 (p. 167 of the Main Volume), applies ; see s. 34 (1), p. A97, *post*.

(*c*) **Raw milk.**—For meaning, see s. 34 (1), p. A97, *post*.

(*d*) **Ministers making the regulations.**—See s. 15 (1), p. A78, *ante*.

18. Enforcement of Milk (Special Designation) Regulations.—(1) Milk (Special Designation) Regulations shall specify the authorities, whether county councils, local authorities, Food and Drugs authorities (*a*) or port health authorities (*b*), by whom they are to be enforced and executed, and may provide for the giving of assistance and information (*c*) by any authority concerned in the administration of the regulations, or of this Act, or of the Food and Drugs Act, 1938, to any other authority so concerned for the purposes of their respective duties thereunder :

Provided that this subsection shall not apply to the enforcement or execution of regulations in respect of the use of a special designation of raw milk (*d*) by a producer of such milk.

(2) Any expenses incurred by a county council in the enforcement and execution of such regulations shall, if the Minister of Health (*e*) by order so directs, be defrayed as expenses for special county purposes (*f*) charged on such part of the county as may be provided by the order, but any such order may be revoked or varied by a subsequent order.

(3) Such regulations may in particular provide for imposing on persons offending against the regulations penalties not exceeding the following, that is to say—

(i) for a first offence a fine of twenty pounds ; and

(ii) for a subsequent offence a fine of one hundred pounds or imprisonment for three months or both.

(4) Such regulations may in particular provide for the taking and examination of samples, and the power conferred by paragraph (a) of subsection (3) of the last foregoing section shall include power, in dealing with the procuring of samples for the purpose of the enforcement of conditions of licences authorising the use of a special designation, to exclude provisions of the Third Schedule to the Food and Drugs Act, 1938 (*g*), which may appear not to be appropriate for that purpose.

Notes

Sub-s. (1) of this section replaces, in relation to Milk (Special Designation) Regulations, s. 92 (3) of the Food and Drugs Act, 1938 (p. 214 of the Main Volume) ; the proviso to sub-s. (1) replaces s. 4 (2) (b) (in part) of the Food and Drugs (Milk and Dairies) Act, 1944 (p. 252 of the Main Volume). Sub-s. (2) replaces s. 92 (6) of the Food and Drugs Act, 1938 (p. 214 of the Main Volume). Sub-s. (3) replaces s. 92 (2) (e) of that Act in conjunction with s. 79 thereof (pp. 214, 190 of the Main Volume), Sub-s. (4) replaces s. 92 (2) (a) of that Act (p. 213 of the Main Volume), and s. 13 of the Milk (Special Designations) Act, 1949.

(*a*) **Local authorities : Food and Drugs authorities.**—The definitions of these expressions contained in s. 64 of the Food and Drugs Act, 1938 (p. 167 of the Main Volume), apply ; see s. 34 (1), p. A97, *post*.

(*b*) **Port health authorities.**—*Cf.* s. 76 of the Food and Drugs Act, 1938 (p. 184 of the Main Volume), which applies for purposes of this Act by virtue of s. 32, p. A97, *post*.

(*c*) **Giving of assistance and information.**—See Reg. 16 of the Milk (Special Designation) (Pasteurised and Sterilised Milk) Regulations, 1949 (S. I. 1949, No. 1589, as amended by S. I. 1950, No. 409) and Reg. 24 of the Milk (Special Designation) (Raw Milk) Regulations, 1949 (S. I. 1949, No. 1590, as amended by S. I. 1950, No. 410).

(*d*) **Raw milk.**—For meaning, see s. 34 (1), p. A97, *post*.

(*e*) **Minister of Health.**—The functions of the Minister of Health under sub-s. (2) were transferred to the Minister of Local Government

and Planning by the Transfer of Functions (Minister of Health and Minister of Local Government and Planning) (No. 2) Order, 1951 (S. I. 1951, No. 753). The title of the Minister of Local Government and Planning has since been changed to " the Minister of Health and Local Government " by the Minister of Local Government and Planning (Change of Style and Title) Order, 1951 (S. I. 1951, No. 1900).

(*f*) **Special county purposes.**—For meaning, see the Local Government Act, 1933, s. 180 (14 Halsbury's Statutes (2nd Edn.), 450).

(*g*) **Food and Drugs Act, 1938, Third Schedule.**—See p. 231 of the Main Volume.

Compulsory use of special designations in specified areas

19. Compulsory use for retail sales.—(1) Subject to the provisions of this Part of this Act, the use of a special designation (*a*) shall be obligatory for the purpose of all sales of milk (*b*) by retail for human consumption (*c*) (other than catering sales (*d*) where the place of sale (*e*) is in an area in which this subsection is in operation (*f*) by virtue of the subsequent provisions of this Part of this Act in that behalf (in this Act referred to as " a specified area.")

(2) The use of a special designation shall be obligatory also for the purpose of a sale of milk by retail for human consumption (other than a catering sale), notwithstanding that the place of sale is not in a specified area, if the milk is delivered from an establishment (whether in or outside a specified area) where there is carried on a business of selling milk (*g*) which includes any sales for the purpose of which the use of a special designation is obligatory by virtue of the foregoing subsection.

(3) The foregoing subsections shall not apply to the selling of milk as therein mentioned by a producer of milk from cows to persons employed by him in or in connection with such production or employed by him otherwise in agriculture (*h*), if he does not engage in any other selling of milk as mentioned in those subsections.

(4) Any person who sells milk without the use of a special designation under a sale for the purpose of which the use of a special designation is obligatory by virtue of this section shall be guilty of an offence (*i*).

(5) It shall be the duty of every Food and Drugs authority (*j*) within their area (*k*) to carry into execution and enforce the provisions of this section.

(6) Section twenty-eight of this Act shall apply for the interpretation of this section.

Notes

This section corresponds to s. 1 (1) (in part), (2), (3), (5), (6) of the Milk (Special Designations) Act, 1949.

(*a*) **Use of a special designation.**—The obligation to use a special designation is imposed on or removed from an area by order under s. 23, p. A87, *post*, subject to the Minister's dispensatory power under s. 21 (1), p. A85, *post*. The approved designations in England and Wales are " Pasteurised " and " Sterilised " (see the Milk (Special Designation) (Pasteurised and Sterilised Milk) Regulations, 1949 (S. I. 1949, No. 1589, as amended by S. I. 1950, No. 409), Reg. 3 (1)), and " Tuberculin Tested " and " Accredited " (see the Milk (Special Designation) (Raw Milk) Regulations, 1949 (S. I. 1949, No. 1590, as amended by S. I. 1950, No. 410), Reg. 4 (2)). The Regulations mentioned have effect as though made under this Part of the Act, by virtue of s. 36 (2), p. A101, *post*. Licences authorising the use of special designations are granted under Part II of the first-mentioned Regulations and under Parts II, III and V of the last-mentioned Regulations. See, further, as to the use of " Accredited," s. 22, p. A86, *post*.

(*b*) **Milk.**—For meaning, see s. 28, p. A92, *post*.

(*c*) **Sale by retail for human consumption.**—For the meaning of " selling," " selling milk by retail," see s. 28, p. A92, *post*. For circumstances in which a presumption arises that an article is intended for human consumption, see s. 81 (4) of the Food and Drugs Act, 1938 (p. 198 of the Main Volume), which applies by virtue of s. 32, p. A97, *post*. For the construction of references to sale for human consumption, see s. 34 (2), p. A99, *post*.

(*d*) **Catering sales.**—For provisions concerning catering sales, see s. 20, *infra*. The expression " catering sale " is defined by s. 28, p. A92, *post*.

(*e*) **Place of sale.**—Rules determining the place of sale in certain cases are contained in s. 23 (4), p. A87, *post*.

(*f*) **Area in which this subsection is in operation.**—See the Milk (Special Designations) (Specified Areas) Order, 1951 (S. I. 1951, No. 1358) made under s. 23, p. A87, *post*, which has brought this subsection into operation in certain areas.

(*g*) **Business of selling milk.**—For " business," " milk," " selling," see s. 28, p. A92, *post*.

(*h*) **Employed by him in agriculture.**—In an unemployment insurance case, it was held that if the industrial status and occupations of the employed persons were such that, though they were working about or in connection with a farm, they might properly be said to be essentially pursuing their own special occupations, then they were not employed in agriculture for the purposes under review (*Re Prior* (1927), 43 T. L. R. 784, *per* ROCHE, J., at pp. 785, 786 ; 44 Digest 1306, *124*).

(*i*) **Guilty of an offence.**—Penalties for offences are provided by s. 79 of the Food and Drugs Act, 1938 (p. 190 of the Main Volume) ; that section applies to offences under this section, by virtue of s. 32, p. A97, *post*.

(*j*) **Food and Drugs authority.**—The definition contained in s. 64 of the Food and Drugs Act, 1938 (p. 167 of the Main Volume), applies ; see s. 34 (1), p. A97, *post*.

(*k*) **Within their area.**—For " area," see s. 34 (1), p. A97, *post*.

20. Compulsory use for catering.—(1) The provisions of this section shall apply to catering sales (*a*), and to sales of milk (*b*) to a person who carries on a business (*b*) which consists in or

comprises making catering sales (in this section referred to as " a caterer.")

(2) Subject to the provisions of this Part of this Act (*c*), a catering sale made in a specified area (*d*)—

(a) shall be lawful (unless it is for any reason unlawful apart from this subsection) if the caterer bought the milk under a sale for the purpose of which a special designation (*e*) was used, or if he holds a licence (*f*) authorising him to use a special designation in connection with the milk, whether the designation is used for the purpose of the catering sale or not ; but

(b) otherwise shall be unlawful.

(3) Subject to the provisions of this Part of this Act (*c*), on a sale of milk to a caterer, being a sale for the purpose of which the use of a special designation would be obligatory by virtue of the last foregoing section if it were a sale by retail (*b*), the use of such a designation shall be obligatory, except where—

(a) the caterer buys the milk with a view to subjecting it to a process to which milk is required to be subjected as a condition of the use of a special designation in connection therewith, and he is the holder of a licence authorising him to use that designation, or

(b) the caterer buys the milk for the purposes of a business of his as a milk dealer or a manufacturer of milk products other than his business as a caterer.

(4) Any person who makes a catering sale which is unlawful by virtue of subsection (2) of this section, or who sells milk without the use of a special designation under a sale for the purpose of which the use of a special designation is obligatory by virtue of subsection (3) of this section, shall be guilty of an offence (*g*) :

Provided that a person shall not be guilty of an offence by virtue of subsection (3) of this section if at the time of the sale in question he had reasonable cause to believe that the conditions specified in paragraph (a) or (b) of that subsection were satisfied as to that sale or that the buyer was not a caterer.

(5) It shall be the duty of every Food and Drugs authority within their area (*h*) to carry into execution and enforce the provisions of this section.

(6) Section twenty-eight of this Act shall apply for the interpretation of this section.

Notes

This section reproduces s. 2 of the Milk (Special Designations) Act, 1949.

(*a*) **Catering sales.**—For meaning, see s. 28, p. A92, *post*.

(*b*) **Sales of milk : business : sale by retail.**—For the meaning of " business," " milk," " selling," " selling milk by retail," see s. 28, p. A92, *post*.

(*c*) **Subject to the provisions of this Part of this Act.**—Milk may be sold to a caterer without the use of a special designation (notwithstanding sub-s. (3) of this section) if the Minister of Food consents and a catering sale of such milk is not rendered unlawful by sub-s. (2) of this section ; see s. 21, *infra*.

(*d*) **Specified area.**—By s. 19 (1), p. A82, *ante*, and s. 25, p. A89, *post*, a " specified area " is an area in which s. 19 (1) is in operation by virtue of an order under s. 23, p. A87, *post*. Certain areas have been specified by the Milk (Special Designations) (Specified Areas) Order, 1951 (S. I. 1951, No. 1358).

(*e*) **Special designation.**—See s. 13 (1), p. A75, *ante*, and note to s. 19, p. A83, *ante*, " Use of a special designation."

(*f*) **Licence.**—*I.e.*, under Milk (Special Designation) Regulations ; see s. 13 (1) (b), p. A75, *ante*.

(*g*) **Guilty of an offence.**—Penalties for offences are provided by s. 79 of the Food and Drugs Act, 1938 (p. 190 of the Main Volume) ; that section applies to offences under this section by virtue of s. 32, p. A97, *post*.

(*h*) **Food and Drugs authority within their area.**—The definition of " Food and Drugs authority " contained in s. 64 of the Food and Drugs Act, 1938 (p. 167 of the Main Volume), applies ; see s. 34 (1), p. A97, *post*. For " area," see s. 34 (1), p. A97, *post*.

21. Power of the Minister of Food to dispense with use.—(1) Notwithstanding anything in subsection (1) or (2) of section nineteen of this Act, or in subsection (3) of section twenty thereof, selling milk (*a*) as therein mentioned without the use of a special designation (*b*) shall be permissible if done with the consent of the Minister of Food, and he may give consents for the purposes of this section, either generally as respects selling milk as mentioned in those subsections or restricted to a particular retailer or establishment or otherwise, and either unconditionally or subject to conditions, as may appear to him to be requisite (*c*) in order to meet any circumstances in which use of a special designation which would be obligatory by virtue of those subsections apart from the consent appears to him to be for the time being not reasonably practicable.

(2) A catering sale (*d*) made in a specified area (*e*) shall not be unlawful by virtue of subsection (2) of section twenty of this Act if the milk was sold to the caterer (*f*) with consent given by the Minister for the purposes of this section.

(3) Section twenty-eight of this Act shall apply for the interpretation of this section.

Notes

This section reproduces s. 3 of the Milk (Special Designations) Act, 1949.

(*a*) **Selling milk.**—For the general meaning of " selling," " milk," see s. 28, p. A92, *post*.

(*b*) **Special designation.**—See s. 13 (1), p. A75, *ante*, and note to s. 19, p. A83, *ante*, " Use of a special designation."

(*c*) **As may appear to him to be requisite.**—Subject to his acting in good faith, the Minister is by this section given a complete discretion and his actions cannot be called in question in the courts ; see, *e.g.*, *R.* v. *Comptroller General of Patents, Ex parte Bayer Products, Ltd.*, [1941] 2 K. B. 306, C. A. ; [1941] 2 All E. R. 677 ; 2nd Digest Supp.

(*d*) **Catering sale.**—For meaning, see s. 28, p. A92, *post*.

(*e*) **Specified area.**—By s. 19 (1), p. A82, *ante*, and s. 28, p. A92, *post*, a " specified area " is an area in which s. 19 (1) is in operation by virtue of an order under s. 23, p. A87, *post*.

(*f*) **Caterer.**—Though the definition of this term in s. 20 (1), p. A83 *ante*, in terms applies only to that section, sub-s. (2) of this section relates back to s. 20 (2), p. A84, *ante*, and the definition accordingly applies.

22. Restriction on use of special designation " Accredited."—(1) On and after the first day of October, nineteen hundred and fifty-four, the special designation " Accredited " (*a*) shall be excluded from the designations which may be used in satisfaction of an obligation to use a special designation (*b*) subsisting by virtue of this Act.

(2) A person shall not use the special designation " Accredited " for a purpose for which the use of a special designation is obligatory by virtue of this Act unless the milk (*c*) in question is all from a single herd, and any person who contravenes this subsection shall be guilty of an offence (*d*).

It shall be the duty of every Food and Drugs authority (*e*) within their area (*f*) to carry into execution and enforce the provisions of this subsection :

Provided that the said duty of a Food and Drugs authority shall not extend to execution and enforcement of the said provisions as regards use of the special designation " Accredited " by the producer (*g*) of the milk in question.

(3) Section twenty-eight of this Act shall apply for the interpretation of this section.

Notes

This section corresponds to s. 4 of the Milk (Special Designations) Act, 1949.

(*a*) **Accredited.**—Subject to the restrictions imposed by sub-s. (2) on the use of this special designation, a licence authorising a person to use the special designation " Tuberculin Tested " entitles him to use the special designation " Accredited " in relation to milk to which that licence applies for the period of 5 years from 1st October, 1949, or for such shorter period as the licence may be in force ; see the Milk (Special Designation) (Raw Milk) Regulations, 1949 (S. I. 1949, No. 1590, as amended by S. I.

1950, No. 410), Reg. 7 (2); those Regulations have effect as though made under this Part of the Act, by virtue of s. 36 (2), p. A101, *post*.

(*b*) **Obligation to use a special designation.**—*I.e.*, under ss. 19 and 20, pp. A82, A83, *ante*.

(*c*) **Milk.**—For meaning, see s. 28, p. A92, *post*.

(*d*) **Guilty of an offence.**—Penalties for offences are provided by s. 79 of the Food and Drugs Act, 1938 (p. 190 of the Main Volume); that section applies to offences under this section by virtue of s. 32, p. A97, *post*.

(*e*) **Food and Drugs authority.**—The definition of this expression contained in s. 64 of the Food and Drugs Act, 1938 (p. 167 of the Main Volume), applies; see s. 34 (1), p. A97, *post*.

(*f*) **Area.**—For meaning, see s. 34 (1), p. A97, *post*.

(*g*) **Use . . . by the producer.**—*Cf.* s. 18 (1), p. A80, *ante*. The Minister of Agriculture and Fisheries controls the granting of licences to producers of raw milk; see s. 17 (1) (b), p. A79, *ante*.

23. Specified areas.—(1) The Minister of Food may at any time order (*a*) that subsection (1) of section nineteen of this Act shall come into operation in any area (*b*) in which it is not then in operation, or shall cease to be in operation in any area in which it is then in operation.

(2) Before making an order under this section the Minister of Food shall consult (*c*) with such representative organisations as appear to him substantially to represent (*d*) the interests concerned with the purposes of the order.

(3) The powers conferred on the Minister by this section shall be exercisable by statutory instrument (*e*), and—

(a) a draft of any statutory instrument bringing subsection (1) of section nineteen of this Act into operation in any area shall be laid before Parliament;

(b) a statutory instrument ordering that subsection (1) of section nineteen of this Act shall cease to be in operation in any area shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) For the purposes of this Part of this Act—

(a) if a contract of sale of milk (*f*) is made in one place and it is delivered under the contract in another place, the place of the sale shall, except in a case falling within paragraph (b) of this subsection, be taken to be the place where the milk is so delivered;

(b) if a contract of sale of milk (*f*) is made in one place and it is delivered under the contract to a carrier for transport to another place, the place of the sale shall be taken to be that other place.

(5) Section twenty-eight of this Act shall apply for the interpretation of this section.

Notes

This section reproduces s. 5 of the Milk (Special Designations) Act, 1949.

(*a*) **May at any time order.**—The Milk (Special Designations) (Specified Areas) Order, 1951 (S. I. 1951, No. 1358), has been made under this section, bringing s. 19 (1), p. A82, *ante*, into operation in certain areas.

(*b*) **Area.**—For meaning, *cf.* s. 34 (1), p. A97, *post*.

(*c*) **Shall consult.**—See note to s. 4, p. A69, *ante*.

(*d*) **As appear to him substantially to represent.**—See note to s. 21, p. A86, *ante*, " As may appear to him to be requisite."

(*e*) **Statutory instrument.**—This term is defined in the Statutory Instruments Act, 1946, s. 1 (24 Halsbury's Statutes (2nd Edn.), 441). S. 6 of that Act applies to orders under sub-s. (3) (a), and s. 5 applies to orders under sub-s. (3) (b). The Laying of Documents before Parliament (Interpretation) Act, 1948 (24 Halsbury's Statutes (2nd Edn.), 448), interprets the expession " laid."

(*f*) **Contract of sale of milk.**—For the construction of this expression, see the definitions of " milk " and " selling " contained in s. 28, p. A92, *post*.

Sub-s. (4) is designed to prevent evasion of the Act by producers outside a specified area delivering milk, for which a special designation is not used, within the area.

24. Power of the Minister of Food to provide facilities for treatment of milk.—(1) The Minister of Food may install, maintain and operate apparatus for the subjection of milk (*a*) to any process to which it is required to be subjected as a condition of the use of a special designation (*b*) in connection therewith, and may provide any other facilities for that purpose, in any case in which it appears to him (*c*), as respects any area which is a specified area (*d*), or an area as to which he proposes to make an order (*e*) bringing subsection (1) of section nineteen of this Act into operation, that facilities for the application of such treatment sufficient to provide for supplies of milk of that designation in that area in requisite quantitites are not available and are not likely otherwise to become available.

(2) Where the Minister of Food provides facilities under this section he may either buy the milk to be treated and re-sell it, otherwise than by retail (*f*) or to a caterer for the purposes of his business as such (*g*), after treatment or apply the treatment to milk of others.

(3) The Minister of Food may make arrangements with local authorities or other persons for the doing, on his behalf and at his expense, of things which he is authorised by this section to do, and it shall be within the powers of local authorities to carry out arrangements so made.

(4) Any expenses incurred by the Minister under this section shall be defrayed out of moneys provided by Parliament, and

payments received by the Minister for milk sold by him thereunder, or for treating thereunder milk of others, shall be paid into the Exchequer.

(5) Section twenty-eight of this Act shall apply for the interpretation of this section, and in this section the expression " local authority " means any local authority within the meaning of the Local Government Act, 1933, or the London Government Act, 1939 (*h*).

Notes

Sub-ss. (1)–(4) of this section reproduce s. 6 of the Milk (Special Designations) Act, 1949. Sub-s. (5) corresponds to s. 14 (1) (in part) of that Act.

(*a*) **Milk.**—For meaning, see s. 28, p. A92, *post*.

(*b*) **Condition of the use of a special designation.**—For the meaning of " special designation," see s. 13 (1) (a), p. A75, *ante*. The processes to which milk is required to be subjected as a condition of the use of a special designation, are specified in regard to the special designations " Pasteurised Milk " and " Sterilised Milk " in the Second Schedule to the Milk (Special Designation) (Pasteurised and Sterilised Milk) Regulations, 1949 (S. I. 1949, No. 1589, as amended by S. I. 1950, No. 409), which have effect as though made under this Part of the Act by virtue of s. 36 (2), p. A101, *post*.

(*c*) **In which it appears to him.**—See note to s. 21, p. A86, *ante*, " As may appear to him to be requisite."

(*d*) **Specified area.**—For meaning, see s. 19 (1), p. A82, *ante*, and s. 28, p. A92, *post*. For the areas which are at present specified, see the Milk (Special Designations) (Specified Areas) Order, 1951 (S. I. 1951, No. 1358), made under s. 23, p. A87, *ante*.

(*e*) **Area as to which he proposes to make an order.**—*I.e.*, under s. 23, p. A87, *ante*.

(*f*) **Re-sell it, otherwise than by retail.**—For the meaning of this phrase, see the definitions of " selling," " selling milk by retail," contained in s. 28, p. A92, *post*.

(*g*) **Or to a caterer for his business as such.**—For the meaning of this phrase, *cf.* the definition of "caterer" in s. 20 (1), p. A83, *ante*, and the definitions of " business " and " catering sale " in s. 28, p. A92, *post*.

(*h*) **Local authority within the meaning, etc.**—By the Local Government Act, 1933, s. 305 (14 Halsbury's Statutes (2nd Edn.), 510), " local authority " means the council of a county, county borough, county district (*i.e.*, non-county borough, urban district or rural district) or rural parish. By the London Government Act, 1939, s. 206 (15 Halsbury's Statutes (2nd Edn.), 1168), " local authority " means the London county council or a metropolitan borough council.

Licences for specified areas

25. Breach of certain conditions of licences for specified areas to be punishable.—(1) In the event of a breach of any condition to which this section applies of a licence held by a retailer for a specified area (*a*), the holder of the licence shall,

subject as provided in the next succeeding section, be guilty of an offence under this section (*b*).

(2) The conditions to which this section applies are conditions as to any such matters as are specified in the Fourth Schedule to this Act.

(3) Milk (Special Designation) Regulations shall specify (*c*) the authorities, whether local authorities or Food and Drugs authorities (*d*), by whom the provisions of this section are to be enforced as respects licences other than licences authorising the use of a special designation (*e*) in relation to raw milk (*f*) by the producer (*g*) thereof, or authorising the use of a special designation by a local authority.

(4) In this section the expression " local authority " means any local authority within the meaning of the Local Government Act, 1933, or the London Government Act, 1939 (*h*).

Notes

This section corresponds to ss. 8, 14 (1) (in part) of the Milk (Special Designations) Act, 1949.

(*a*) **Licence held by a retailer for a specified area.**—For the meaning of this expression, see s. 28, p. A92, *post*.

By s. 19 (1), p. A82, *ante*, and s. 28, p. A92, *post*, a " specified area " is an area in which s. 19 (1) is in operation by virtue of an order under s. 23, p. A87, *ante*.

(*b*) **Offence under this section.**—For restrictions on liability, see s. 26, *infra*. Penalties for offences are provided by s. 79 of the Food and Drugs Act, 1938 (p. 190 of the Main Volume); that section is applicable to offences under this section by virtue of s. 32, p. A97, *post*. See, likewise, s. 80 of that Act (summary prosecution), s. 83 (passing-over to actual offender), s. 84 (warranty as a defence). S. 84 applies by virtue of s. 36 (5), p. A101, *post*.

(*c*) **Milk (Special Designation) Regulations shall specify.**—See the Milk (Special Designation) (Pasteurised and Sterilised Milk) Regulations, 1949 (S. I. 1949, No. 1589, as amended by S. I. 1950, No. 409), Reg. 15, and the Milk (Special Designation) (Raw Milk) Regulations, 1949 (S. I. 1949, No. 1590, as amended by S. I. 1950, No. 410), Reg. 23. These Regulations have effect as though made under this Part of the Act, by virtue of the saving contained in s. 36 (2), p. A101, *post*.

(*d*) **Food and Drugs authorities.**—This term is defined by s. 64 of the Food and Drugs Act, 1938 (p. 167 of the Main Volume). The definition is applied for the purposes of this Act by s. 34 (1), p. A97, *post*.

(*e*) **Special designation.**—See s. 13 (1), p. A75, *ante*, and note to s. 19, p. A83, *ante* " Use of a special designation."

(*f*) **Raw milk.**—For meaning, see s. 34 (1), p. A97, *post*.

(*g*) **Use . . . by the producer.**—See note to s. 22, p. A87, *ante*.

(*h*) **Local authority within the meaning, etc.**—See note to s. 24, p. A89, *ante*.

26. Restrictions on liability under foregoing section.—(1) Such a breach of condition as is mentioned in the last

foregoing section, constituted by an act or omission for which the holder of the licence is liable to any punishment imposed by or under any enactment other than that section, shall not render the holder of the licence guilty of an offence under the last foregoing section.

(2) Such a breach of condition as is mentioned in the last foregoing section shall not render the holder of the licence guilty of an offence under that section unless it was the later, or a later, of two or more such breaches, occurring within a period of twelve months, of conditions either of that licence or of that licence and a former licence by way of renewal whereof that licence was granted, and was committed either—

(a) after the licensing authority (*a*) had given him notice in writing (*b*) as to an earlier of those two or more breaches informing him of his being alleged to have committed it, and warning him of the liability to prosecution imposed by the last foregoing section ; or

(b) after he had been convicted of an offence under that section by virtue of an earlier of those two or more breaches.

(3) In the case of any prosecution in respect of such a breach of condition as is mentioned in the last foregoing section which would otherwise render the holder of the licence guilty of an offence under that section, it shall be a defence (*c*) for him to prove the following matters (either as to that breach, or as to the earlier breach relied on for the purpose of subsection (2) of this section unless it is one by virtue of which he has been convicted of such an offence), that is to say—

(a) that neither he nor any servant or agent (*d*) of his did, or knew of the doing of, any act that constituted the breach or can reasonably be regarded as having been the cause or amongst the causes of it, or omitted to do, or knew of an omission to do, any act the omission whereof constituted the breach or the doing whereof can reasonably be regarded as a precaution that would have prevented it ; and

(b) If the breach was in connection with milk that had been sold (*e*) to him, or had been delivered to him after being subjected to a process to which it was required to be subjected as a condition of the use of the special designation (*f*) to which his licence related, that that designation was used for the purpose of the sale to him or in connection with the delivery to him, as the case may be, and was so used without any breach, discoverable by the exercise of reasonable diligence on the part of himself or any servant or agent of his, of any condition, relating

to receptacles, to closing, to fastening or to marking, of a licence to use that designation held by the person who sold the milk to him or subjected it to the process, as the case may be.

(4) Section twenty-eight of this Act shall apply for the interpretation of this section.

Notes

This section reproduces s. 9 of the Milk (Special Designations) Act, 1949.

(*a*) **Licensing authority.**—For meaning, see s. 28, *infra*.

(*b*) **Notice in writing.**—The provisions of ss. 283 (2), 284 and 285 of the Public Health Act, 1936 (14 Halsbury's Statutes (2nd Edn.), 463, 464), relating to the form, authentication and service of notices, apply to any notice under this section ; see s. 96 of the Food and Drugs Act, 1938 (p. 217 of the Main Volume) and s. 32, p. A97, *post*.

(*c*) **It shall be a defence.**—If it is desired to plead the special defence provided by sub-s. (3), the appropriate plea is one of " not guilty."

(*d*) **Servant or agent.**—For the distinction between a servant and an agent, see 22 Halsbury's Laws (2nd Edn.), 113 *et seq*.

(*e*) **Milk that had been sold.**—For " milk " and for the construction of references to " selling," see s. 28, *infra*.

(*f*) **Condition of use of special designation.**—See note to s. 24, p. A89, *ante*. See, also, for the meaning of special designation, s. 13 (1), p. A75, *ante*, and note to s. 19, p. A83, *ante*; " Use of a special designation."

27. Revocation, suspension and refusal of licences.—Part II of the Third Schedule to this Act shall have effect as respects the application of Part I of that Schedule to a licence held by a retailer for a specified area (*a*).

Notes

This section and Part II of the Third Schedule, p. A105, *post*, correspond to ss. 10, 11 (in part) of the Milk (Special Designations) Act, 1949.

(*a*) **Specified area.**—By s. 19 (1), p. A82, *ante*, and s. 28, *infra*, this means an area in which s. 19 (1) is in operation by virtue of an order under s. 23, p. A87, *ante*.

Interpretation of certain provisions in Part II

28. Interpretation of certain provisions in Part II.—In the provisions of this Part of this Act beginning with section nineteen and in the Third Schedule to this Act, except where the context otherwise requires—

" business " includes (*a*) the business of a hospital, school or other institution (*b*) whose selling of milk is incidental only to the rendering of the health, educational or other services (*b*) rendered by the institution ;

" catering sale " means (*a*) a sale of milk, or of things made from milk or of which milk is an ingredient, as, or as part of, a meal or refreshments ;

" licence held by a retailer for a specified area " means (*a*) a licence authorising the use of a special designation (*c*) held by a person carrying on a business which includes any sales which are sales for the purpose of which the use of a special designation is obligatory (*d*) by virtue of this Part of this Act and are of milk in relation to which that licence authorises the use of a special designation ;

" licensing authority " means (*a*), in relation to a grant of a licence authorising the use of a special designation, the authority having power to grant it by virtue of Milk (Special Designation) Regulations (*e*), and, in relation to such a licence which has been granted, the authority who would for the time being have power by virtue of such regulations as aforesaid to grant a licence by way of renewal thereof if it had expired ;

" milk " means (*a*) cows' milk, excluding not only condensed milk and dried milk, but also cream (*f*) and separated, skimmed and evaporated milk, and butter milk ;

" selling " means (*a*) selling in the course of a business, and includes, in relation to milk, supplying it under arrangements for free supply, and, in relation to milk and things made from milk or of which milk is an ingredient, supplying it or them, in the course of any business otherwise than under such arrangements ; and references to sales and contracts of sale and sellers shall be construed accordingly ;

" selling milk by retail " means (*a*) selling it—

(a) to any person other than a milk dealer (that is to say a person who carries on a business which consists in or comprises the selling of milk) or a manufacturer of milk products (that is to say, a person who carries on a business which consists in or comprises the making of things made from milk or of which milk is an ingredient) ; or

(b) to such a dealer or manufacturer otherwise than for the purposes of his business as such ;

" specified area " has the meaning (*a*) assigned by subsection (1) of section nineteen of this Act ;

" supplying under arrangements for free supply " means (*a*), in relation to any milk, supplying it, free from any payments made or to be made by the person to whom it is supplied, under arrangements made in exercise of powers in that behalf conferred by any Regulation (*g*) in the Defence (General) Regulations, 1939, or by section forty-nine or subsection (2) of section seventy-eight of the Education Act, 1944 (*h*) ; and references to a person's buying milk include references to his having it supplied to him under such arrangements.

Notes

This section corresponds to ss. 1 (4), 8 (2) and 14 (1) (in part) of the Milk (Special Designations) Act, 1949.

(*a*) **Includes . . . means.**—The word " means " has been held to have an excluding effect, and the word " includes " an extending effect ; see *R.* v. *Kershaw* (1856), 6 E. & B. 1007, *per* ERLE, J.

(*b*) **Or other institution ; or other services.**—It may well be that the construction of these general terms should be limited to matters of the same kind as the specific terms that precede them (*East London Waterworks Co.* v. *Mile End Old Town Trustees* (1851), 17 Q. B. 512 ; 42 Digest 673, *838*). The two phrases are themselves clearly related.

(*c*) **Licence authorising the use of a special designation.**—For the power to grant such licences, see s. 13, p. A75, *ante*, and note to s. 19, p. A83, *ante*, " Use of a special designation."

(*d*) **Obligatory use of special designation.**—See s. 19, p. A82, *ante*, for the circumstances in which such use is obligatory.

(*e*) **Milk (Special Designation) Regulations.**—No Regulations have been made under this Act, at the time of going to press. By virtue, however, of the saving contained in s. 36 (2), p. A101, *post*, the Milk (Special Designation) (Pasteurised and Sterilised Milk) Regulations, 1949 (S. I. 1949, No. 1589, as amended by S. I. 1950, No. 409), and the Milk (Special Designation) (Raw Milk) Regulations, 1949 (S. I. 1949, No. 1590, as amended by S. I. 1950, No. 410), have effect as though made under this Part of the Act. For licensing authorities within the meaning of those Regulations, see Reg. 4 of the first-mentioned Regulations and Reg. 14 of the last-mentioned Regulations.

(*f*) **Cream.**—For definition, see s. 34 (1), p. A97, *post*.

(*g*) **Conferred by any Regulation.**—*E.g.*, by Regs. 55, 55AA and 55AB of the Defence (General) Regulations, 1939 (S. R. & O. 1939, No. 927, as amended), under which were made the Welfare Foods Order, 1947 (S. R. & O. 1947, No. 1673 (now amended by S. R. & O. 1947, No. 2239, S. I. 1948, No. 791, S. I. 1949, No. 1902 and S. I. 1951, No. 1195)).

(*h*) **Education Act, 1944, ss. 49, 78 (2).**—8 Halsbury's Statutes (2nd Edn.), 193, 212. These sections deal with the provision of milk and meals at schools.

PART III

ARTIFICIAL CREAM

29. Regulation of sale of artificial cream.—(1) No person shall sell, or offer or expose for sale, for human consumption under a description or designation including the word " cream " any substance (*a*) purporting to be cream (*a*) or artificial cream (*a*), unless—

(a) the substance is cream ; or

(b) where the substance is artificial cream, the word " cream " is immediately preceded by the word " artificial."

(2) No person shall use any vessel (*a*) for conveying artificial cream intended for sale for human consumption (*b*), or for containing artificial cream at any time when it is exposed for such

sale, unless the words " artificial cream " are printed in large and legible letters of uniform size and conspicuously visible either on the vessel itself, or on a label securely attached thereto.

(3) A person who contravenes any of the provisions of this section shall be guilty of an offence (*c*).

(4) It shall be the duty of every Food and Drugs authority (*a*) within their area (*a*) to carry into execution and enforce the provisions of this section with a view to securing that food is sold only in a pure and genuine condition.

Notes

This section corresponds to ss. 27 and 65 (1) (in part) of the Food and Drugs Act, 1938 (pp. 133, 168 of the Main Volume).

(*a*) **Definitions.**—For " area," " artificial cream," " cream," " Food and Drugs authority," " substance " and " vessel," see s. 34 (1), p. A97, *post*.

(*b*) **Human consumption.**—For the construction of references to sale for human consumption, see s. 34 (2), p. A99, *post*. See also s. 81 (4) of the Food and Drugs Act, 1938 (p. 198 of the Main Volume), which applies by virtue of s. 32, p. A97, *post*.

(*c*) **Guilty of an offence.**—Ss. 79–83 of the Food and Drugs Act, 1938 (pp. 190–201 of the Main Volume), will apply by virtue of s. 32, p. A97, *post*. S. 84 of that Act (p. 203 of the Main Volume), applies by virtue of s. 36 (5), p. A101, *post*.

30. Premises where artificial cream is manufactured or sold to be registered.—(1) Artificial cream (*a*) shall not be manufactured, sold, or exposed or kept for sale for human consumption (*b*) except on premises (*a*) registered by the Food and Drugs authority (*a*) :

Provided that registration under this section shall not be required in respect of—

(a) the manufacture of artificial cream by any person solely for his domestic purposes ; or

(b) the manufacture of artificial cream on any premises for use in the preparation (*a*) on those premises of some other food ; or

(c) the sale, exposure or keeping for sale of artificial cream on any premises where it is supplied only in the properly closed and unopened vessels (*a*) in which it is delivered to those premises.

(2) A person who uses any unregistered premises in contravention of the foregoing provisions of this section shall be guilty of an offence (*c*), and the court may order that any machine found on the premises which is suitable for use in the manufacture of artificial cream shall be forfeited.

(3) A Food and Drugs authority shall, on the application of the occupier of, or of a person proposing to occupy, any premises, register those premises for the purposes of this section.

(4) Upon any change in the occupation of premises registered under this section, the incoming occupier shall, if he intends to use them for the purpose for which they are registered, forthwith give notice of the change to the authority, who shall thereupon make any necessary alteration in their register.

If a person required to give a notice under this subsection fails to do so, he shall be liable to a fine not exceeding five pounds.

(5) Where any substance (*a*) having the composition of cream (*a*) or artificial cream is sold or exposed or kept for sale on premises registered under this section, it shall be presumed to be artificial cream, unless the contrary is proved.

(6) It shall be the duty of every Food and Drugs authority within their area (*a*) to carry into execution and enforce the provisions of this section with a view to securing that food is sold only in a pure and genuine condition.

Notes

This section corresponds to ss. 28 and 65 (1) (in part) of the Food and Drugs Act, 1938 (pp. 134, 168 of the Main Volume).

(*a*) **Definitions.**—For "area," "artificial cream," "cream," "Food and Drugs authority," "premises," "prepare," "substance" and "vessel," see s. 34 (1), p. A97, *post*.

(*b*) **Human consumption.**—See note to s. 29, p. A95, *ante*.

(*c*) **Guilty of an offence.**—See note to s. 29, p. A95, *ante*. Ss. 77, 78 of the Food and Drugs Act, 1938 (pp. 186, 187 of the Main Volume), which relate to entry on premises and penalties for obstruction, will also apply by virtue of s. 32, p. A97, *post*.

31. Extension to artificial cream of provisions relating to cream.—Save as otherwise expressly provided, such of the following provisions as apply in relation to cream (*a*), that is to say—

(a) any provision of this Act ;

(b) any provision of Milk and Dairies Regulations (*b*), other than provisions relating to the registration of dairymen and dairies (*c*) ; and

(c) any provision of Milk (Special Designation) Regulations (*d*) ;

shall also apply in relation to artificial cream (*a*).

Notes

This section corresponds to s. 29 of the Food and Drugs Act, 1938 (p. 135 of the Main Volume).

(*a*) **Cream : artificial cream.**—For meaning, see s. 34 (1), *infra*.

(*b*) **Milk and Dairies Regulations.**—See s. 1, p. A65, *ante*.

(*c*) **Dairymen: dairies.**—For meaning, see s. 34 (1), *infra*.

(*d*) **Milk (Special Designation) Regulations.**—See s. 13, p. A75, *ante*.

Part IV

General

32. This Act to form part of the Food and Drugs Act, 1938.—The Food and Drugs Act, 1938, and this Act shall be construed as if this Act formed part of that Act.

Note

The main effect of this section is to render applicable, in relation to this Act, certain provisions contained in the Food and Drugs Act, 1938, Part VI (p. 167 of the Main Volume), with regard to entry on premises, legal proceedings, continuance of licences or registrations on death, etc. For the effect of a direction that the Acts are to be construed as one, see, *e.g.*, *Hart* v. *Hudson Brothers, Ltd.*, [1928] 2 K. B. 629, at p. 635 ; 44 Digest 133, *26* ; *Phillips* v. *Parnaby*, [1934] 2 K. B. 299, at p. 302 ; Digest Supp., and see, generally, 24 Halsbury's Statutes (2nd Edn.), 145, 146.

33. Regulations.—Any power to make regulations under this Act shall be exercisable by statutory instrument (*a*) and any such statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Notes

This section corresponds to ss. 23 (2), 92 (5) and 96 (1) (in part) of the Food and Drugs Act, 1938 (pp. 130, 214, 217 of the Main Volume), as modified by ss. 1 (2) and 5 (2) of the Statutory Instruments Act, 1946.

(*a*) **Statutory instrument.**—See, generally, the Statutory Instruments Act, 1946 (24 Halsbury's Statutes (2nd Edn.), 440) ; for provisons as to annulment, see s. 5 (1) thereof.

34. Interpretation.—(1) In this Act, except where the context otherwise requires—

" animal " does not include bird ;

" area," in relation to a county council, means, as the case may require, either the county or that part of the county for which the council are the Food and Drugs authority and, in relation to a local authority, means their district ;

" artificial cream " means an article of food which, though not cream, resembles cream and contains no ingredient which

is not derived from milk except water or any substance which may lawfully be contained in an article sold as cream, being some substance not injurious to health which in the case of cream may be required for its production or preparation as an article of commerce in a state fit for carriage or consumption and which has not been added fraudulently to increase bulk, weight or measure or conceal inferior quality ;

" county " means an administrative county ;

" cream " means that part of milk rich in fat which has been separated by skimming or otherwise ;

" dairy " includes any farm, cowshed, milking house, milk store, milk shop or other premises from which milk is supplied on or for sale, or in which milk is kept or used for purposes of sale or of manufacture into butter, cheese, dried milk or condensed milk for sale, or in which vessels used for the sale of milk are kept, but does not include a shop from which milk is supplied only in the properly closed and unopened vessels in which it is delivered to the shop, or a shop or other place in which milk is sold for consumption on the premises only ;

" dairy farm " means any premises being a dairy as herein defined on which milk is produced from cows, but does not include any part of any such premises on which milk is manufactured into other products unless the milk produced on the premises forms a substantial part of the milk so manufactured ; and if any question arises whether the milk produced on a farm or other premises forms a substantial part of the milk that is manufactured into other products thereon, that question shall be determined by the Minister of Agriculture and Fisheries;

" dairy farmer " means a dairyman who produces milk from cows ;

" dairyman " includes an occupier of a dairy, a cow keeper, and a purveyor of milk ;

" Food and Drugs authority " has the meaning assigned to it by section sixty-four of the Food and Drugs Act, 1938 (*a*) ;

" local authority " has the meaning assigned to it by section sixty-four of the Food and Drugs Act, 1938 (*a*) ;

" London " means the administrative County of London ;

" milk " includes cream and separated milk, but does not include dried milk or condensed milk ;

" premises " includes messuages, buildings, land, easements and hereditaments of any tenure ;

" prepare," in relation to food, includes manufacture ;

" purveyor," in relation to any milk, includes any person who sells milk, whether wholesale or by retail ;

" raw milk " means milk which has not been treated by heat ;

" separated," in relation to milk, includes skimmed ;

" substance " includes a liquid ;

" vessel " includes a receptacle of any kind, whether open or closed.

(2) In this Act, unless the context otherwise requires, any reference to food of any kind sold, or offered, exposed, intended or in preparation, for sale for human consumption shall be construed as including a reference to that food sold, or offered, exposed, intended or in preparation for sale, for the manufacture of products for human consumption.

Notes

This section reproduces s. 100 (1) (in part) and (2) of the Food and Drugs Act, 1938 (pp. 221–224 of the Main Volume) and s. 8 (1) (in part) and (2) of the Food and Drugs (Milk and Dairies) Act, 1944 (p. 253 of the Main Volume).

(*a*) **Food and Drugs Act, 1938, s. 64.**—See p. 167 of the Main Volume.

35. Transitional.—(1) The provisions of this section shall have effect in connection with the transition from the law in force before the first day of October, nineteen hundred and forty-nine (which was the date of the coming into operation of the Food and Drugs (Milk and Dairies) Act, 1944, and the Milk (Special Designations) Act, 1949) to the law in force after that date.

(2) Any premises (*a*) being immediately before the said first day of October a dairy farm (*a*), and any person then carrying on the trade of a dairy farmer (*a*), shall be deemed to have been registered in accordance with Milk and Dairies Regulations (*b*) by the Minister of Agriculture and Fisheries on that day ; and those regulations shall include provision for ascertaining the premises and persons deemed to have been registered as aforesaid and for making consequential adjustments of the register kept by any authority under the said regulations immediately before the said day, and may include provision for any matter incidental to or consequential on the foregoing provisions of this subsection.

(3) Where on the said first day of October any duty of carrying into effect and enforcing any provisions contained in this Act was transferred (*c*) from one body to another, anything then already commenced by or under the authority of the former may, so far as

it relates to that duty, be carried on or completed by or under the authority of the latter, and, in any legal proceedings having reference to that duty which were then pending and to which the former was a party, the latter shall be substituted for the former and the proceedings shall not abate by reason of the substitution.

(4) Milk (Special Designation) Regulations may provide (*d*) for giving continuing effect to decisions, proceedings in connection with appeals, and other things made, taken or done under paragraphs (d) or (e) of subsection (1) of section twenty-one of the Food and Drugs Act, 1938 (*e*), (which corresponded to Part I of the Third Schedule to this Act) or pending when those paragraphs were repealed on the said first day of October, as if they had been made, taken or done for the purposes of the said Part I.

Notes

This section corresponds to s. 1 (4) of the Food and Drugs (Milk and Dairies) Act, 1944 (p. 251 of the Main Volume), and to ss. 11 (3) (in part) and 12 (3) (in part) of the Milk (Special Designations) Act, 1949.

(*a*) **Definitions.**—For "dairy farm," "dairy farmer" and "premises," see s. 34 (1), p. A97, *ante*.

(*b*) **Milk and Dairies Regulations.**—*I.e.*, the Milk and Dairies Regulations, 1949 (S. I. 1949, No. 1588) which have effect as though made under Part I of this Act, by virtue of s. 36 (2), p. A101, *post*. Reg. 6 of those Regulations makes the provisions required by sub-s. (2).

(*c*) **Where . . . any duty . . . was transferred.**—*E.g.*, by s. 12 (3) of the Milk (Special Designations) Act, 1949, which substituted for s. 21 (4) of the Food and Drugs Act, 1938 (p. 127 of the Main Volume), provisions corresponding to those now contained in s. 13 (6) of this Act, p. A76, *ante*, whereby Food and Drugs authorities became the authorities responsible, outside as well as inside London, for preventing the misuse of special designations or the use of misleading descriptions.

(*d*) **Milk (Special Designation) Regulations may provide.**—For such provisions as may be made by virtue of sub-s. (4), see the Milk (Special Designation) (Pasteurised and Sterilised Milk) Regulations, 1949 (S. I. 1949, No. 1589, as amended by S. I. 1950, No. 409), Reg. 14 and the Milk (Special Designation) (Raw Milk) Regulations, 1949 (S. I. 1949, No. 1590, as amended by S. I. 1950, No. 410), Reg. 22, which have effect under this Act by virtue of s. 36 (2), p. A76, *post*.

(*e*) **Food and Drugs Act, 1938, s. 21 (1) (d), (e).**—See p. 126 of the Main Volume.

36. Repeal and savings.—(1) The enactments set out in the Fifth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule :

Provided that without prejudice to the provisions of the Interpretation Act, 1889 (*a*), this subsection shall have effect subject to the following provisions of this section.

(2) Nothing in this repeal shall affect any instrument made or other thing whatsoever done under any enactment repealed by this Act, and every such instrument or other thing shall continue in force and, so far as it could have been made or done under this Act, shall have effect as if made or done under the corresponding provision of this Act.

(3) Any document referring to any Act or enactment repealed by this Act shall be construed as referring to this Act or the corresponding enactment in this Act.

(4) The reference in subsection (2) of section seventy-one of the Food and Drugs Act, 1938 (*b*), and any other reference in any enactment passed or made before the first day of October, nineteen hundred and forty-nine (the date of the coming into operation of the Food and Drugs (Milk and Dairies) Act, 1944) to Milk and Dairies Regulations shall include a reference to Milk (Special Designation) Regulations.

(5) The reference in subsection (1) of section eighty-four of the Food and Drugs Act, 1938 (*b*), to Part II of that Act shall be construed as a reference to this Act.

Notes

(*a*) **Interpretation Act, 1889.**—24 Halsbury's Statutes (2nd Edn.), 205.

(*b*) **Food and Drugs Act, 1938, ss. 71 (2), 84 (1).**—See pp. 181, 203 of the Main Volume.

37. Extent.—This Act shall not extend to Scotland or Northern Ireland.

38. Short title, citation and commencement.—(1) This Act may be cited as the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950, and may be cited together with the Foods and Drugs Acts, 1938 and 1944, as the Food and Drugs Acts, 1938 to 1950.

(2) This Act shall come into operation on the first day of January, nineteen hundred and fifty-one.

SCHEDULES

FIRST SCHEDULE

Sections 2 and 3

Refusal and Cancellation of Registration of Dairymen and of Dairy Farms and Farmers

Part I

Dairymen

1. If it appears to an authority by whom dairymen (*a*) are registered in pursuance of Milk and Dairies Regulations, other than the Minister of Agriculture and Fisheries, that the public health is, or is likely to be, endangered by any act or default of a person who has applied to be, or is, so registered by the authority, being an act or default, committed whether within or without the district of the authority, in relation to the quality, storage or distribution of milk (*a*), they shall serve on him a notice (*b*)—

(a) stating the place and time, not being less than seven days after the date of the service of the notice, at which they propose to take the matter into consideration ; and

(b) informing him that he may attend before them, with any witnesses whom he desires to call, at the place and time mentioned to show cause why they should not, for reasons specified in the notice, refuse to register him or cancel his registration, as the case may be, either generally or in respect of any specified premises.

2. If a person on whom a notice is served under the foregoing paragraph fails to show cause to the satisfaction of the authority, they may refuse to register him or cancel his registration as the case may be, and shall forthwith give notice (*b*) to him of their decision in the matter, and shall, if so required by him within fourteen days of their decision, give to him within forty-eight hours a statement of the grounds on which it was based.

3. A person aggrieved by the decision of an authority under this Part of this Schedule to refuse to register him, or to cancel his registration, may appeal (*b*) to a court of summary jurisdiction.

4. The court before whom a person registered as a dairyman otherwise than by the Minister of Agriculture and Fisheries is convicted of an offence under any of the provisions relating to milk in the Food and Drugs Act, 1938, or this Act, or under any Milk and Dairies Regulations may, in addition to any other penalty, cancel his registration as such.

5. An authority other than the Minister of Agriculture and Fisheries may require a person who applies to them for registration as a dairyman to give to them, before his application is considered, information as to whether he is, or has been, registered as a dairyman, whether by them or the Minister of Agriculture and Fisheries or some other authority, and if an applicant who is so required gives to the authority any information which is false in any material respect, he shall be guilty of an offence (*b*).

6. Where under this Part of this Schedule a person's application for registration is refused, or his registration is cancelled, he shall not be liable for any breach of contract for the purchase of further supplies of milk from any person, if such refusal or cancellation was due to the quality of the milk supplied by that person.

Part II

Dairy Farms and Farmers

7. Milk and Dairies Regulations shall provide (*c*)—

(a) for the refusal by the Minister of Agriculture and Fisheries of registration of a dairy farm (*a*) or of a person carrying on, or proposing to carry on, the trade of a dairy farmer (*a*), if in his opinion, having regard to conditions existing at the premises to be registered, the regulations cannot be complied with and the registration should be refused ; and

(b) for the cancellation of any such registration by that Minister if in his opinion the regulations are not being complied with and the registration should be cancelled.

8. Any regulations made by virtue of the last foregoing paragraph shall—

(a) require notice (*b*) to be given to the person affected of any intention to refuse or cancel the registration, stating the grounds on which it is alleged that the regulations cannot be or are not being complied with, as the case may be, and his rights of making objections and representations in accordance with the regulations ;

(b) enable the said person, within the time prescribed by the regulations (which shall not be less, in the case of a refusal, than twenty-eight days or, in the case of a cancellation, than twenty-one days, from the date of the service of the said notice) to object, in respect of all or any of the grounds stated in the said notice, that the regulations can be or are being complied with, as the case may be ;

(c) provide for the reference of any such objection to a tribunal constituted in accordance with the regulations ;

(d) provide for the procedure of the said tribunal, and in particular for entitling the person objecting to appear before the tribunal with any witnesses he desires to call, and to require the tribunal to inspect the premises to which the objections relate ;

(e) require the said tribunal to determine whether the objections are made out and, if not, on which of the grounds in respect of which they are made they are not made out, and provide that, in the event of a difference of opinion among the members of the tribunal, the determination of the majority of them shall be the determination of the tribunal ;

(f) require that the determinations of the tribunal shall be reported to the Minister of Agriculture and Fisheries and communicated by him to the person objecting, and provide that the determinations of the tribunal as stated in the report shall, for the purpose of the proposal to refuse or cancel registration, be conclusive evidence of the facts found thereby ;

(g) enable the said person within the time so prescribed to make representations to the Minister of Agriculture and Fisheries that the registration should not be refused or cancelled on the grounds stated in the notice mentioned in sub-paragraph (a) of this paragraph ;

(h) provide that no registration shall be cancelled—

(i) in any case, until the expiration of the prescribed time for making objections or representations under the regulations ;

(ii) in a case where an objection is made within that time, until the report of the tribunal thereon has been received and considered by the said Minister ;

(iii) in a case where representations are made to the said Minister within that time, until the representations have been considered by him.

9. There shall be paid out of moneys provided by Parliament to the chairman of any such tribunal as is referred to in the last foregoing paragraph such remuneration (by way of salary or fees) and such allowances as the Minister of Agriculture and Fisheries may, with the approval of the Treasury, determine.

Notes

Part I of this Schedule corresponds to s. 22 of the Food and Drugs Act, 1938 (p. 128 of the Main Volume), as amended by s. 3 of, and the Schedule to, the Food and Drugs (Milk and Dairies) Act, 1944 (pp. 252, 254 of the Main Volume). Part II corresponds to s. 1 (2) (b), (3) of the Food and Drugs (Milk and Dairies) Act, 1944 (p. 249 of the Main Volume), and s. 7 (3) of the Agriculture (Miscellaneous Provisions) Act, 1949.

(*a*) **Definitions.**—For " dairy farm," " dairy farmer," " dairyman," " milk," see s. 34 (1), p. A97, *ante*.

(*b*) **Application of Food and Drugs Act, 1938.**—Certain provisions of the Food and Drugs Act, 1938, will apply for the purposes of this Schedule by virtue of s. 32 of this Act, p. A97, *ante* ; see ss. 79 *et seq.* of that Act (pp. 190 *et seq.* of the Main Volume) (legal proceedings), ss. 87–90 (pp. 211–213 of the Main Volume) (appeals), s. 96 (p. 217 of the Main Volume) (as to notices).

(*c*) **Milk and Dairies Regulations shall provide.**—For the matters required to be provided by paras. 7, 8 of this Schedule, see the Milk and Dairies Regulations, 1949 (S. I. 1949, No. 1588), Reg. 7, which has effect under this Act by virtue of s. 36 (2), p. A101, *ante*. Functions of the Minister of Agriculture and Fisheries under that regulation have been delegated to County Agricultural Executive Committees by the Milk and Dairies (Delegation to County Agricultural Executive Committees) Regulations, 1949 (S. I. 1949, No. 1847, as amended by S. I. 1950, No. 1818).

SECOND SCHEDULE

Section 8

Diseases of Cows to which section eight applies

Acute mastitis.
Actinomycosis of the udder.
Suppuration of the udder.
Any infection of the udder or teats which is likely to convey disease
Any comatose condition.
Any septic condition of the uterus.
Anthrax.
Foot and mouth disease.

Note

This Schedule reproduces Part I of the First Schedule to the Food and Drugs Act, 1938 (p. 231 of the Main Volume).

THIRD SCHEDULE

Sections 14 and 27

POWERS AS TO REVOCATION OR SUSPENSION OF LICENCES TO USE SPECIAL DESIGNATIONS, AND PROCEDURE AS TO REVOCATION, SUSPENSION OR REFUSAL THEREOF

PART I

GENERAL

1. Provision shall be made by Milk (Special Designation) Regulations (*a*) for enabling the licensing authority (*b*) or, on an appeal made to him by virtue of the subsequent provisions of this Schedule in that behalf, the Minister of Food, to revoke or suspend a licence authorising the use of a special designation, on the ground of any breach of condition thereof which is proved to the satisfaction of the licensing authority or of that Minister as the case may be :

Provided that this paragraph shall, in relation to licences for specified areas (*b*), have effect subject to the provisions of Part II of this Schedule.

2. Provision shall be made by such regulations as aforesaid (*a*) as to any decision to revoke or suspend such a licence as aforesaid or to refuse a grant of such a licence—

(a) where the licensing authority (*b*) is a local authority (*b*), for conferring on the holder of the licence or the applicant, as the case may be (in this Schedule referred to as " the person affected ") a right to be heard by the appropriate committee of the authority before a decision is made, and a right of appeal to the Minister of Food against a decision adverse to the person affected ;

(b) for requiring the Minister of Food on any such appeal to him, and any Minister of the Crown when acting as licensing authority, before making his decision to afford to the person affected an opportunity of making representations ;

(c) for securing that any such hearing as aforesaid by a committee shall be in public, that the person affected shall be entitled to be heard by himself or by counsel or a solicitor or other representative as he may elect, and that he or his representative shall be entitled to call witnesses and to cross-examine witnesses called by another ; and

(d) for securing that such notice of a decision or proposed decision shall be given to the person affected as may be requisite for enabling him effectively to exercise rights conferred on him by virtue of the foregoing sub-paragraphs.

3. Paragraph (b) of subsection (3) of section seventeen of this Act shall not apply to any such decision as is mentioned in the last foregoing paragraph.

PART II

LICENCES HELD BY RETAILERS FOR SPECIFIED AREAS

4.—(1) Any provision for the revocation of a licence authorising the use of a special designation on the ground of breach of a condition thereof made by Milk (Special Designation) Regulations (*a*) shall be such as to secure that a licence held by a retailer for a specified area (*b*) shall not be

revoked, and a grant of a licence by way of renewal of a licence so held shall not be refused, on the ground of breach of a condition of the licence so held, unless—

(a) the breach in question is of a condition to which section twenty-five of this Act applies,

(b) the holder of the licence has been convicted of an offence under that section by virtue of the breach in question, or has been convicted, within twelve months before the time of the breach in question or after the time of it, of an offence under section thirteen, nineteen, twenty or twenty-two of this Act, or of an offence under Milk and Dairies Regulations for which a penalty is thereby imposed, and

(c) the decision of the licensing authority to revoke, or to refuse renewal, as the case may be, is made within twelve months from the date of the breach in question.

(2) Any provision for the suspension of a licence authorising the use of a special designation on the ground of breach of a condition thereof made by Milk (Special Designation) Regulations (*a*) shall be such as to secure that—

(a) a licence held by a retailer for a specified area (*b*) shall not be suspended, by virtue of any one decision of the authority having power to suspend it, for a period of more than three months, but

(b) a period of suspension of such a licence awarded by any such decision may be extended by a subsequent such decision made in accordance with the provisions of this Schedule.

(3) For the purposes of any decision for the suspension of a licence held by a retailer for a specified area (*b*), the term of that licence and of any licence granted by way of renewal thereof shall be treated as if they had been a single term, and accordingly—

(a) a period of suspension of such a licence of three months or less may be awarded notwithstanding that that period is longer than the unexpired residue of the term of the licence ; and

(b) where such a longer period of suspension of such a licence is awarded, a licence may be granted by way of renewal thereof but that licence shall be in suspense until the expiry of that period, and such a decision for extension of that period as is mentioned in paragraph (b) of sub-paragraph (2) of this paragraph may be made so as to extend the suspension of that licence.

5. Paragraph 1 of this Schedule shall, in so far as it relates to proof of a breach of condition of a licence, have effect subject as follows, that is to say—

(a) the provision to be made as therein mentioned shall extend to a breach by virtue of which the holder of the licence has been convicted of an offence under section twenty-five of this Act without requiring any proof thereof other than conviction ; and

(b) in relation to a case referred to a tribunal by virtue of the subsequent provisions of this Schedule, not being a case in which the holder of the licence has been convicted as aforesaid, the said paragraph 1 shall have effect with the substitution of a reference to proof by the finding of the tribunal for the reference to proof to the satisfaction of the licensing authority or the Minister.

6.—(1) Milk (Special Designation) Regulations (*a*) shall, where the issue is as to the revocation or suspension of a licence held by a retailer for a specified area (*b*), or as to the refusal to grant such a licence by way of renewal of such a licence, provide—

(a) for requiring the Minister of Food on such an appeal as is mentioned in sub-paragraph (a) of paragraph 2 of this Schedule, and any Minister of the Crown when acting as licensing authority (*b*), to refer the matter to a tribunal constituted in accordance with the regulations if the person affected so requests ;

(b) for requiring that the duty of such a tribunal on any such reference shall be to report findings on any questions of fact appearing to them to be relevant, and in particular, where the issue is as to revocation or suspension on the ground of a breach of condition not being one by virtue of which the holder of the licence has been convicted of an offence under section twenty-five of this Act, to find and report whether the breach was in fact committed (which finding shall be conclusive for the purposes of this Schedule), and for requiring the Minister of Food, or the Minister acting as licensing authority, as the case may be, to consider the report of the tribunal before making his decision ;

(c) for the procedure of such a tribunal, including provision for conferring on the person affected a right to be heard by the tribunal, and including provision for treating the finding of a majority of the members of such a tribunal as the finding of the tribunal in the event of a difference of opinion among the members ;

(d) for securing that any such hearing as aforesaid by a tribunal shall be in public, that the person affected shall be entitled to be heard by himself or by counsel or a solicitor or other representative as he may elect, and that he or his representative shall be entitled to call witnesses and to cross-examine witnesses called by another ; and

(e) for securing that such notice of a decision or proposed decision shall be given to the person affected as may be requisite for enabling him effectively to exercise rights conferred on him by virtue of the foregoing provisions of this paragraph.

(2) There shall be paid out of moneys provided by Parliament to the chairman of any such tribunal as aforesaid such remuneration (by way of salary or fees) and such allowances as the authority appointing him may, with the approval of the Treasury, determine.

Part III

Interpretation

7. Section twenty-eight of this Act shall apply for the interpretation of this Schedule.

Notes

This Schedule corresponds to ss. 10 and 11 (1), (2), (3) (in part) and (4) of the Milk (Special Designations) Act, 1949.

Transitional Provisions.—See s. 35 (1), (4), p. A99, *ante*.

(*a*) **Milk (Special Designation) Regulations.**—By virtue of the saving contained in s. 36 (2), p. A101, *ante*, the regulations at present in force are the Milk (Special Designation) (Pasteurised and Sterilised Milk) Regulations, 1949 (S. I. 1949, No. 1589, as amended by S. I. 1950, No. 409), and the Milk (Special

Designation) (Raw Milk) Regulations, 1949 (S. I. 1949, No. 1590, as amended by S. I. 1950, No. 410).

For the provisions required to be made by paras. 1, 5 of this Schedule, see Reg. 10 (1) of the first-mentioned Regulations and Regs. 12 (1), 18 (1) of the last-mentioned Regulations.

For the provisions to be made by virtue of para. 2, see Reg. 10 (2), (3) of the first-mentioned Regulations and Regs. 12 (2), (3), (4) and 18 (2), (3) of the last-mentioned Regulations.

For the provisions to be made by virtue of para. 4, see Reg. 9 of the first-mentioned Regulations and Regs. 11, 17 of the last-mentioned Regulations.

For references to, and the constitution and procedure of, tribunals under para. 6, see Regs. 10 (2) (f), (3), 11 of, and the Fourth Schedule to, the first-mentioned Regulations and Regs. 12 (3), 13, 18 (2) (f), (3), 19 of, and the Fourth Schedule to, the last-mentioned Regulations.

(*b*) **Definitions.**—For " licensing authority," " licence held by a retailer for a specified area " and " specified area," see s. 28, p. A92, *ante*; for " local authority," see s. 34 (1), p. A97, *ante*.

FOURTH SCHEDULE

Section 25

Conditions to which section twenty-five applies

1. Conditions to which section twenty-five of this Act applies are conditions relating to any of the following matters, that is to say—

The examination or testing of animals (*a*), the inoculation of animals, the keeping of any animal or herd away from other animals, or other measures for detecting the existence of disease in animals or preventing the contracting or spread of it.

The marking, or keeping of records, of any animals, or other measures for indentification thereof.

The subjection of milk to any process of heat-treatment, or to any cooling or other process, requirements in connection with the subjection of milk thereto or as to the temperature or other conditions under which it is to be kept thereafter, or the recording or retention of evidence of the observance of such requirements.

Satisfaction of a test of milk, being a test related to the subjection of milk to such a process as aforesaid or to the observance of any such requirements as aforesaid.

Measures for securing that milk produced, or subjected to a process, as required by any conditions is kept away from, and free from admixture with, other milk not so produced or subjected or other things, or is not subjected to some specified process.

The manner in which milk produced, or subjected to any process, in accordance with any conditions is to be dealt with or kept as respects the receptacles in which it is to be put or to remain, the closing or fastening of receptacles, or the marking of receptacles or of things by which they are closed or fastened.

The manner of describing milk produced, or subjected to any process, in accordance with any conditions.

The making or keeping of records of milk produced, bought, subjected to any process, or sold.

2. In this Schedule the expression "milk" means cows' milk, excluding not only condensed milk and dried milk but also cream and separated, skimmed and evaporated milk, and butter milk.

Notes

This Schedule reproduces the Schedule to the Milk (Special Designations) Act, 1949.

(*a*) **Animal**.—This does not include a bird; see s. 34 (1), p. A97, *ante*.

FIFTH SCHEDULE

Section 36

ENACTMENTS REPEALED

Session and Chapter, or Serial Number	Short Title	Extent of Repeal
1 Edw. 8 & 1 Geo. 6. c. 70.	The Agriculture Act, 1937	In section nineteen, in subsection (1), the words "and any enactments relating to milk or to dairies".
1 & 2 Geo. 6. c. 56.	The Food and Drugs Act, 1938.	The whole of Part II. In section sixty-five, in subsection (1), paragraphs (b) and (c). In section ninety-two, in subsection (1), the words "Milk and Dairies Regulations". In the First Schedule, Part I.
7 & 8 Geo. 6. c. 29.	The Food and Drugs (Milk and Dairies) Act, 1944.	Sections one to four. In section eight, in subsection (1) all the definitions except that of war service; and subsection (2). The Schedule.
12 & 13 Geo. 6. c. 34.	The Milk (Special Designations) Act, 1949.	The whole Act.
12 & 13 Geo. 6. c. 37.	The Agriculture (Miscellaneous Provisions) Act, 1949.	Section seven. In the Schedule, Part I.
	Statutory Instrument	
S.I. 1948, No. 107.	The Transfer of Functions (Food and Drugs) Order, 1948.	Articles three, four and five. In article six, paragraph (2).

TABLE OF REPEALS AND REPLACEMENTS

This table shows in column (1) the enactment repealed by the Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950, and in column (2) the provisions of that Act corresponding thereto.

In a few cases the enactment in column (1), though having a corresponding provision in column (2), is not repealed as it is still required for purposes of other legislation.

(1)	(2)
Agriculture Act, 1937 (c. 70)	Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950 (c. 35)
s. 19 (1)	s. 12
Food and Drugs Act, 1938 (c. 56)	
s. 20 (1)	ss. 1 (1), 2 (1), 4 (1)
(2)	s. 1 (2)
(3)	4 (3)
21 (1)	ss. 13 (1), 15 (1), 17 (1), (2)
(2)	s. 13 (2), (3)
(3)	13 (4), (5)
22	Sch. 1, Part I
23 (1)	s. 10
(2)	33
24	9 (1)–(3)
25	8
26	11
27	29 (1)–(3)
28	30 (1)–(5)
29	31
65 (1) (*b*), (*c*)	ss. 9 (4), 29 (4) 30 (6)
79 (not repealed)	7 (5), 18 (3)
92 (2) (not repealed)	6, 7 (5), (6), 17 (3), 18 (4)
(3) (not repealed)	7 (1), 18 (1)
(4) (not repealed)	4 (2), 15 (2)
s. 92 (5) (not repealed)	s. 33
(6) (not repealed)	ss. 7 (3), 18 (2)
96 (1) (not repealed)	s. 33
100 (1) (not repealed)	ss. 7 (3), 13 (1), 34 (1)
(2) (not repealed)	s. 34 (1), (2)
102 (2) (not repealed)	37
Sch. 1, Part I	Sch. 2
Food and Drugs (Milk and Dairies) Act, 1944 (c. 29)	
s. 1 (2)	s. 3, Sch. 1, para. 7
(3)	Sch. 1, para. 8
(4)	s. 35 (2)
(5)	1 (1)
(6)	1 (1)
2 (1)	13 (1)
(2)	15 (1)
(3)	17 (1)
3	Sch. 7, Part I

(1)	(2)
Food and Drugs (Milk and Dairies) Act, 1944 (c. 29)	Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950 (c. 35)
s. 4 (1)	s. 7 (2)
(2)	ss. 7 (1), 15 (2), 17 (3), 18 (1)
(3)	5, 16
8 (1), (2)	s. 34 (1)
Schedule	Sch. 1, Part I
Milk (Special Designations) Act, 1949 (c. 34)	
s. 1 (1)	s. 19 (1)
(2)	19 (2)
(3)	19 (3)
(4)	28
(5)	19 (4)
(6)	19 (5)
2	20 (1)–(5)
3	21 (1), (2)
4	22 (1), (2)
5	23 (1)–(4)
6	24 (1)–(4)
8 (1), (2)	25 (1)
(3)	25 (2)
(4)	25 (3)
9	26 (1)–(3)
10	Sch. 3, para. 4
11 (1)	paras. 1, 5
(2)	2, 6(1)
(3)	s. 35 (4), Sch. 3, para. 3
(4)	Sch. 3, para. 6 (2)

(1)	(2)
Milk (Special Designations) Act, 1949 (c. 34)	Food and Drugs (Milk, Dairies and Artificial Cream) Act, 1950 (c. 35)
s. 12 (1)	s. 14 (2)
(2)	13 (2)
(3)	ss. 13 (6), 35 (3)
13	s. 18 (4)
14 (1)	ss. 13 (1), (2), (7), 24 (5), 25 (4), 28
(2)	s. 13 (1), (2), (7)
(3)	13 (7)
16 (1), (2)	Not reproduced
(3)	32
(5)	37
Schedule	Sch. 4
Agriculture (Miscellaneous Provisions) Act, 1949 (c. 37)	
s. 7 (1)	s. 7 (4)
(2)	7 (1), (2)
(3)	Sch. 1, para. 9
Sch., Part I	s. 7 (1), (2)
Transfer of Functions (Food and Drugs) Order, 1948 (S.I. 1948, No. 107)	
art. 3 (1)	s. 4 (1)
4	ss. 15 (1), 17 (3)
5	s. 10
6 (2)	17 (1)

APPENDIX I

LIST OF STATUTORY RULES, ORDERS AND INSTRUMENTS

Note.—The following is a list of the more important Statutory Rules, Orders and Instruments in force, which have been made since the publication of the Main Volume in 1946.

Food and Drugs

Ice Cream (Heat Treatment, etc.) Regulations, 1947 (S. R. & O. 1947, No. 612, as amended by S. I. 1948, No. 819, and S. I. 1951, No. 67).

Transfer of Functions (Food and Drugs) Order, 1948 (S. I. 1948, No. 107).

Food and Drugs (Whalemeat) Regulations, 1949 (S. I. 1949, No. 404, as amended by S. I. 1950, No. 189).

Milk and Dairies

Milk and Dairies (Delegation to County Agricultural Executive Committees) Regulations, 1949 (S. I. 1949, No. 1481, as amended by S. I. 1950, No. 1818).

Milk and Dairies Regulations, 1949 (S. I. 1949, No. 1588).

Milk (Special Designation) (Pasteurised and Sterilised Milk) Regulations, 1949 (S. I. 1949, No. 1589, as amended by S. I. 1950, No. 409).

Milk (Special Designation) (Raw Milk) Regulations, 1949 (S. I. 1949, No. 1590, as amended by S. I. 1950, No. 410).

Milk (Special Designations) (Specified Areas) Order, 1951 (S. I. 1951, No. 1358).

Weights and Measures

Sale of Food (Weights and Measures : Prepacked Articles) Regulations, 1950 (S. I. 1950, No. 1104).

Miscellaneous

(i) *Under Prevention of Damage by Pests Act, 1949*

Prevention of Damage by Pests (Infestation of Food) Regulations, 1950 (S. I. 1950, No. 416).

Prevention of Damage by Pests (Application to Shipping) Order, 1951 (S. I. 1951, No. 967).

(ii) *Under Defence (Sale of Food) Regulations*

Fluorine in Food Order, 1947 (S. R. & O. 1947, No. 1134).

Mineral Oil in Food Order, 1949 (S. I. 1949, No. 614, as amended by S. I. 1950, No. 1239).

Food Standards (Table Jellies) Order, 1949 (S. I. 1949, No. 1656).

Food Standards (Curry Powder) Order, 1949 (S. I. 1949, No. 1816).

Food Standards (Tomato Ketchup) Order, 1949 (S. I. 1949, No. 1817).

Food Standards (Fish Cakes) Order, 1950 (S. I. 1950, No. 589).

Labelling of Food Order, 1950 (S. I. 1950, No. 1061, as amended by S. I. 1952, No 549).

Pre-Packed Foods (Weights and Measures: Marking) Order, 1950 (S. I. 1950, No. 1125, as amended by S. I. 1951, No. 996).

Food Standards (Ice-Cream) Order, 1951 (S. I. 1951, No. 13).

Food Standards (Cream) Order, 1951 (S. I. 1951, No. 668).

Food Standards (Edible Gelatine) Order, 1951 (S. I. 1951, No. 1196, as amended by S. I. 1951, No. 2240).

Food Standards (Fish Paste) Order, 1951 (S. I. 1951, No. 1456, as amended by S. I. 1951, No. 2241).

Food Standards (Meat Paste) Order, 1951 (S. I. 1951, No. 1457, as amended by S. I. 1951, No. 2242).

(iii) *Seizure of Food*

Seizure of Food Order, 1948 (S. I. 1948, No. 724, as amended by S. I. 1948, No. 953).

APPENDIX II

"SUBSTANCE RECOMMENDED AS A MEDICINE"

The following is a list of phrases which in the opinion of the Pharmaceutical Society could be held to constitute recommendation for the purposes of Section 17 (1) of the Pharmacy and Medicines Act, 1941. The list was published in the *Pharmaceutical Journal* of February 28, 1948.

Examples of terms the use of which, considered in isolation, would in the Society's opinion constitute recommendation :—

Alterative
Analgesic
Anodyne
Antacid
Anthelmintic
Antiphlogistic
Antipyretic
Antiscorbutic
Antispasmodic
Aperient
Aphrodisiac
Bronchial
Cardiac
Carminative
Cathartic
Diaphoretic
Diuretic
Drawing
Emmenagogue
Expectorant
Hæmostatic
Hepatic
Hypnotic
Laxative
Lenitive
Linctus
Pectoral
Pulmonary
Pulmonic
Purgative
Sedative
Stomachic
Sudorific
Vermicide
Vermifuge

The following phrases in the Society's opinion constitute a recommendation :—

Corrects acidity
Reduces inflammation
Produces perspiration
Eliminates uric acid
Antiseptic for application to wounds
Lines the stomach with a protective layer
Absorbs stomach poisons
Absorbs toxins from the alimentary canal
Relieves pain
Reduces swellings
For bruises
Cleanses the blood of impurities
Protects the chest
Eye Ointment
Ear Drops
Possesses blood-forming properties
For the removal of hard skin
For softening hard skin
For the removal of warts (or destruction of warts)
Urinary antiseptic
Intestinal disinfectant
For disinfecting the bowel
Prevents infection
For irritation of the skin

Body Names.—The Society considers that the use of body names in association with the name of a medicinal substance, as a general rule, constitutes recommendation, e.g. :—

Chest and Lung Mixture
Head Powders
Stomach Powder
Liver Pills

Ailments.—The following descriptions of bodily conditions are considered to be within the expression "ailment infirmity or injury affecting the human body (*a*)":—

Abrasions	Clergyman's sore throat
Bites of insects	Constitutional weakness
Blotches and pimples	Dandruff
Bruises	Decayed teeth
Chafes	Relaxed throat
Chapped hands	Scurf
Chapped lips	Sore lips
Chilblains	Sunburn

(*a*) This phrase appears in s. 17—*see* p. 246 of the Main Volume.

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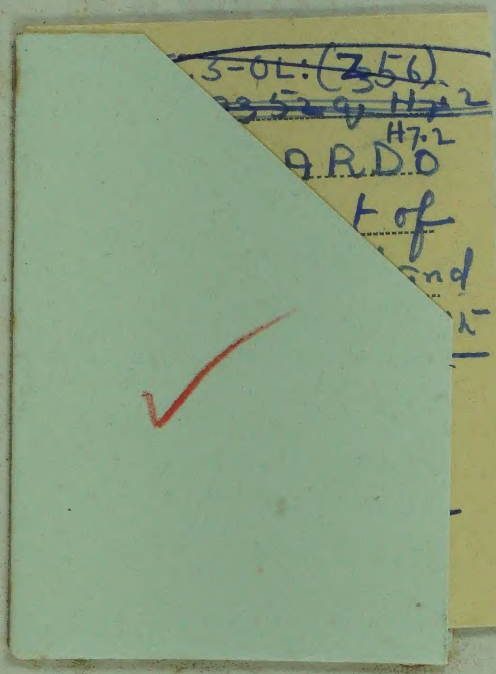
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